

TO VERIFY: TRANSLUCENT GLOBE ICONS MUST BE VISIBLE WHEN HELD TOWARD A LIGHT SOURCE



STANFORD UNIVERSITY

OFFICE OF THE REGISTRAR

STANFORD, CA 94305-6032

Name: Khalil, Mina Elias
Student ID: 05062045

Thomas C. Black
University Registrar

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Advanced Placement Test Credit

Applied Toward Undergraduate Matriculated Program

Print Date: 11/09/2011

Stanford Degrees Awarded

Degree : Bachelor of Arts
Confer Date : 06/18/2006
Plan : Philosophy
Plan : Political Science

Academic Program

Program : Undergraduate Matriculated
02/09/2004 : Philosophy (BA)
06/15/2006 : Political Science (BA)
Completed Program

2001-2002 Autumn		
Advanced Placement	Government & Politics: U.S.	0.00
Advanced Placement	U.S. History	10.00
Advanced Placement	English Literature & Composition	6.00
Advanced Placement	English Language & Composition	0.00
Advanced Placement	Mathematics: Calculus BC	5.00
Advanced Placement	Mathematics AB Subscore	0.00
Advanced Placement	Physics C - Electricity & Magnetism	0.00
Advanced Placement	Physics C - Mechanics	4.00
Advanced Placement	Spanish	10.00
Total Quarter Units Posted:		35.00

Allowable Test Credit subject to restrictions.

Beginning of Academic Record

2001-2002 Autumn

Course	Title	Attempted	Earned	Grade
IHUM 50	HISTORY AND ETERNITY	5.00	5.00	A-
PWR 3	WRITING AND RHETORIC 3	4.00	4.00	A
SOC 44N	RACE, CLASS, AND CULTURE IN URBAN AMERICA	3.00	3.00	A-
	McDermott, Monica			

2001-2002 Winter

Course	Title	Attempted	Earned	Grade
CHEM 31	CHEMICAL PRINCIPLES	4.00	4.00	B-
HISTORY 18N	CONFRONTING ISLAM: THE UNITED STATES IN THE MIDDLE EAST SINCE 1967	4.00	4.00	B-
IHUM 28A	POETIC JUSTICE: ORDER AND IMAGINATION IN RUSSIA	5.00	5.00	A
MATH 51	LINEAR ALGEBRA AND DIFFERENTIAL CALCULUS OF SEVERAL VARIABLES	5.00	5.00	A-
	Cohen, Ralph L.			

Transfer Credits

Applied Toward Undergraduate Matriculated
Transfer Credit from University of California Los Angeles
Quarter Units Posted: 8.00

Applied Toward Undergraduate Matriculated
Transfer Credit from American University in Cairo
Quarter Units Posted: 16.00

Total Quarter Units Posted: 24.00

Allowable Transfer Credit subject to restrictions.

Page 1 of 3

Send To: Mina Elias Khalil
517 E. Chestnut Street
Glendale, CA 91205
USA

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2001-2002 Spring

Course	Title	Attempted	Earned	Grade
CHEM 33	STRUCTURE AND REACTIVITY	4.00	0.00	W
	Wandless, Thomas J.			
HISTORY 49	THE SLAVE TRADE	5.00	5.00	B+
	Roberts, Richard			
I HUM 28B	POETIC JUSTICE: ORDER AND IMAGINATION IN RUSSIA	5.00	5.00	A-
	Katsev, Allison Yerklin			

2001-2002 Summer

Course	Title	Attempted	Earned	Grade
CHEM 33	STRUCTURE AND REACTIVITY	4.00	4.00	A-
	Kahl, Stephen B.			
CHEM 35	ORGANIC MONOFUNCTIONAL COMPOUNDS	4.00	4.00	B+
	Branz, Stephen E.			
CHEM 36	CHEMICAL SEPARATIONS	3.00	3.00	A-
	Touster, Jonathan			
MUSIC 12A	INTRODUCTORY PIANO CLASS	1.00	1.00	CR
	Zerlang, Timothy			

2002-2003 Autumn

Course	Title	Attempted	Earned	Grade
CHEM 130	THEORY AND PRACTICE OF IDENTIFICATION	4.00	4.00	CR
	Touster, Jonathan; Wandless, Thomas J.			
HUMBIO 2A	GENETICS, EVOLUTION, AND ECOLOGY	5.00	5.00	C+
	Durham, William; Mountain, Joanna Louise			
HUMBIO 2B	CULTURE, EVOLUTION, AND SOCIETY	5.00	5.00	B-
	Klein, Richard G.			
MUSIC 12B	INTRODUCTORY PIANO CLASS	1.00	1.00	CR
	Zerlang, Timothy			

2002-2003 Winter

Course	Title	Attempted	Earned	Grade
BIOSCI 42	CELL BIOLOGY, DEVELOPMENTAL BIOLOGY, AND NEUROBIOLOGY	5.00	5.00	B
	Dumas, Jacques Pierre; Heller, H Craig			
	Jones, Patricia P; Luo, Ligu			
	Meier, Timothy James			
CHEM 25Q	SCIENCE-IN-FICTION IS NOT SCIENCE FICTION	2.00	2.00	S
	Djerassi, Carl			
CHEM 131	ORGANIC POLYFUNCTIONAL COMPOUNDS	3.00	3.00	B
	Touster, Jonathan			
DRAMA 110	WORKSHOP: CARTOGRAPHIES OF RACE, MAPPING RACE, AND SPACE IN CALIFORNIA	5.00	5.00	A
	Elam Jr, Harry J			
PHIL 102	MODERN PHILOSOPHY, DESCARTES TO KANT	4.00	4.00	A
	De Pieris, Graciela			

2002-2003 Spring

Course	Title	Attempted	Earned	Grade
NSUR 399	RESEARCH	3.00	3.00	S
	Palmer, Theo			
RELIGST 112	WOMEN AND ISLAM: EVOLVING IDENTITIES IN A CHANGING WORLD	5.00	5.00	A
	Armijo-Hussein, Jacqueline			
RELIGST 177	THEISM, DEISM, PANTHEISM, ATHEISM, FAITH (FROM SPINOZA TO NIETZSCHE)	4.00	4.00	A
	Peperzak, Adriaan			

2003-2004 Winter

Course	Title	Attempted	Earned	Grade
PHIL 30	INTRODUCTION TO POLITICAL PHILOSOPHY	5.00	5.00	A-
	Hussain, Nadeem J Z			
PHIL 57	INTRODUCTORY LOGIC	4.00	4.00	B
	Escoto, Ben Meskill			
POLISCI 136	PHILOSOPHICAL ISSUES CONCERNING RACE AND RACISM	4.00	4.00	A-
	Satz, Debra M			
POLISCI 241S	REGIME CHANGE: COMPARATIVE THEORIES	5.00	5.00	A
	McFaul, Michael Anthony			

Page 2 of 3

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2003-2004 Spring
Oxford Overseas Campus

Course	Title	Attempted	Earned	Grade
OSPOXFRD	195J TUTORIAL IN JURISPRUDENCE	6.00	6.00	A
POLISCI	147P MODERN BRITISH POLITICS AND GOVERNMENT	5.00	5.00	B+
POLISCI	148P EUROPEAN IMPERIALISM AND THE THIRD WORLD, 1870-1970	5.00	5.00	A-
	Staff, 1			

2004-2005 Autumn

Course	Title	Attempted	Earned	Grade
PHIL	61 PHILOSOPHY AND THE SCIENTIFIC REVOLUTION	5.00	5.00	B+
	Friedman, Michael			
PHIL	100 GREEK PHILOSOPHY	4.00	4.00	CR
	Bobonich, Christopher J			
POLISCI	223S THE IMPERIAL TEMPTATION: U.S. FOREIGN POLICY IN A UNIPOLAR WORLD	5.00	5.00	A-
	Joffe, Josef			
POLISCI	299A SENIOR PROJECT	3.00	0.00	
	Diamond, Larry			
POLISCI	299R SENIOR RESEARCH SEMINAR	3.00	3.00	A-
	Rutten, Andrew Raul			

2004-2005 Winter

Course	Title	Attempted	Earned	Grade
PHIL	187 PHILOSOPHY OF ACTION	4.00	4.00	A-
	Bratman, Michael E			
PHIL	377 TOPICS IN DEMOCRATIC THEORY	5.00	5.00	B
	Ferejohn, John A; Satz, Debra M			
POLISCI	299B SENIOR PROJECT	6.00	6.00	B+
	Diamond, Larry			
POLISCI	346S THE LOGIC OF AUTHORITARIAN GOVERNMENT	5.00	5.00	B
	Haber, Stephen H			

2004-2005 Spring

Course	Title	Attempted	Earned	Grade
PHIL	80 MIND, MATTER, AND MEANING	5.00	5.00	C+
	Crimmins, Mark			
PHIL	171 POLITICAL PHILOSOPHY	4.00	4.00	A-
	Schapiro, Tamar			
PHIL	197 INDIVIDUAL WORK, UNDERGRADUATE	1.00	1.00	A-
	Schapiro, Tamar			
POLISCI	4 INTRODUCTION TO COMPARING POLITICAL SYSTEMS	5.00	5.00	A-
	Diaz-Cayeros, Alberto			
POLISCI	299C SENIOR PROJECT	5.00	5.00	A-
	Diamond, Larry			

2005-2006 Spring

Course	Title	Attempted	Earned	Grade
SPEC	201 GRADUATION QUARTER	0.00	0.00	
	Printup, Roger Owen			

END OF TRANSCRIPT

Page 3 of 3

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Unofficial Transcript and GPA

This page printed on 10/11/2021 12:41:56 PM

[Home](#) | [Mobile](#) | [HELP](#) | [Student Registration and Financial Services](#) | [Campus Express](#) | [PennPortal](#) | [Contact Us](#)[Log out](#)**Unofficial Transcript and GPA for Khalil, Mina E**

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To order an official transcript select 'Order transcripts' under 'Academic records' from the menu on the left.

Unofficial Transcript as of: 10/11/21 12:41:14 PM

AT THE GRADUATE LEVEL
* * * * * ACADEMIC PROGRAM * * * * *

School: ARTS & SCIENCES
Division: GRADUATE ARTS & SCIENCES
Degree Program: DOCTOR OF PHILOSOPHY
Graduate Group: NEAR EASTERN LANGUAGES & CIVILIZATN

* * * * * DEGREES AWARDED * * * * *

08-06-21 DOCTOR OF PHILOSOPHY
12-22-16 MASTER OF ARTS

* * * * * UNIVERSITY OF PENNSYLVANIA COURSE WORK * * * * *

Fall 2013 GRADUATE ARTS & SCIENCES
ARAB 436 INTR CLASSIC ARABIC TXTS 1.00 CU A-
ARAB 635 ADV INTERMED ARABIC I (1.00) CU AUD
HIST 740 MID EAST RACE & ETHNICIT 1.00 CU A-
NELC 599 INDEPENDENT STUDY:
The Religious Other 1.00 CU A-
PERS 611 ELEM PERSIAN I 1.00 CU A
Term Statistics: 4.00 CU GPA 3.78
Cumulative: 4.00 CU GPA 3.78

Spring 2014 GRADUATE ARTS & SCIENCES
ARAB 432 ARABIC BELLES-LETTRES 1.00 CU A
ARAB 433 AR RDGS SOC SCI 1.00 CU A
NELC 535 MUSLIMS,CHRISTIANS,JEWS 1.00 CU A
PERS 612 ELEM PERSIAN II 1.00 CU A+
Term Statistics: 4.00 CU GPA 4.00
Cumulative: 8.00 CU GPA 3.89

Fall 2014 GRADUATE ARTS & SCIENCES
ARAB 637 ADV ARABIC & SYNTAX I 1.00 CU A
ARAB 734 SELECT TOPICS ARABIC LIT:
SEMINAR IN ARABIC POETRY 1.00 CU A
NELC 638 APPROACHES ISLAMIC LAW 1.00 CU A
PERS 613 INTERMED PERSIAN I 1.00 CU A+
Term Statistics: 4.00 CU GPA 4.00
Cumulative: 12.00 CU GPA 3.93

Spring 2015 GRADUATE ARTS & SCIENCES
ARAB 731 TOPICS ISLAMIC STUDIES 1.00 CU A
ARAB 735 THE ADAB TRADITION:
Classical/Early Arabic Prose 1.00 CU A
PERS 614 INTERMED PERSIAN II 1.00 CU A+
Term Statistics: 3.00 CU GPA 4.00
Cumulative: 15.00 CU GPA 3.94

Fall 2015 GRADUATE ARTS & SCIENCES
ARAB 436 INTR CLASSIC ARABIC TXTS 1.00 CU A-
NELC 599 Modern Egyptian Social History 1.00 CU A
TURK 621 ELEMENTARY TURKISH I 1.00 CU A+
Term Statistics: 3.00 CU GPA 3.90
Cumulative: 18.00 CU GPA 3.93

Spring 2016 GRADUATE ARTS & SCIENCES
ARAB 533 MOD PUB LAW& POLIT THGT 1.00 CU A
HIST 416 EURO INTELL HIST 18TH C (1.00) CU AUD
TURK 622 ELEM TURKISH II 1.00 CU A+
TURK 629 OTTOMAN TURKISH I 1.00 CU A+
Term Statistics: 3.00 CU GPA 4.00
Cumulative: 21.00 CU GPA 3.94

Fall 2016 GRADUATE ARTS & SCIENCES
NELC 995 DISSERTATION
Term Statistics: 0.00 CU
Cumulative: 21.00 CU GPA 3.94

Spring 2017 GRADUATE ARTS & SCIENCES
NELC 995 DISSERTATION
Term Statistics: 0.00 CU
Cumulative: 21.00 CU GPA 3.94

Fall 2017 GRADUATE ARTS & SCIENCES

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1/2

10/11/21, 9:42 AM

Unofficial Transcript and GPA

NELC 995 DISSERTATION
 Term Statistics: 0.00 CU
 Cumulative: 21.00 CU GPA 3.94

Spring 2018
 NELC 995 GRADUATE ARTS & SCIENCES
 DISSERTATION
 Term Statistics: 0.00 CU
 Cumulative: 21.00 CU GPA 3.94

Fall 2018
 GAS 996 GRADUATE ARTS & SCIENCES
 RECIPROCAL PROGRAM
 DISS WORK ABROAD
 Term Statistics: 0.00 CU
 Cumulative: 21.00 CU GPA 3.94

Spring 2019
 GAS 996 GRADUATE ARTS & SCIENCES
 RECIPROCAL PROGRAM
 DISS WORK ABROAD
 Term Statistics: 0.00 CU
 Cumulative: 21.00 CU GPA 3.94

Fall 2019
 GAS 993 GRADUATE ARTS & SCIENCES
 RECIPROCAL PROGRAM
 DISS INTERNSHIP
 Term Statistics: 0.00 CU
 Cumulative: 21.00 CU GPA 3.94

Spring 2020
 GAS 993 GRADUATE ARTS & SCIENCES
 RECIPROCAL PROGRAM
 DISS INTERNSHIP
 Term Statistics: 0.00 CU
 Cumulative: 21.00 CU GPA 3.94

Fall 2020
 GAS 993 GRADUATE ARTS & SCIENCES
 DISSERTATION INTERNSHIP
 Term Statistics: 0.00 CU
 Cumulative: 21.00 CU GPA 3.94

Spring 2021
 GAS 993 GRADUATE ARTS & SCIENCES
 DISSERTATION INTERNSHIP
 Term Statistics: 0.00 CU
 Cumulative: 21.00 CU GPA 3.94
 Equivalent Credit: 5.00 CU
 Total Credit: 26.00 CU

***** PENN EQUIVALENT CREDIT *****

External Transfer Credit:
 HARVARD U MED/LAW SCH - ADM OFF LAW SCHOOL/ 5.00 CU
 Total Penn Equivalent Credit Awarded: 5.00 CU

***** COMMENTS *****

In response to the COVID-19 pandemic, specific divisions within the University of Pennsylvania granted alternate grading options for academic terms that were impacted. See COVID-19 Alternate Grading Policies in the Archives of University Catalogs for details.

Dissertation Supervisor: LOWRY, JOSEPH E.

Dissertation Title: A Society's Crucible: Forging Law and the Criminal Defendant in Modern Egypt, 1820-1920

Passed Masters Final Exam: 09-30-16; Passed Doctoral Qualifications Evaluation: 01-08-15; Defense of Proposal Date: 02-26-18; Candidacy Examination Date: 06-28-17; Passed Doctoral Oral Exam: 05-28-21; Passed Doctoral Dissertation Defense: 05-28-21

Masters Research Requirement satisfied by Research Project; Passed Language Requirement: French 01-05-16; Passed Language Requirement: German 07-13-16

***** NO ENTRIES BEYOND THIS POINT *****

March 23, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

It is with pleasure that I write to support Mina Khalil's application to serve in your chambers. Mina is writing one of the most innovative legal history dissertations that I have come across in my fifteen-year involvement with the Samuel I. Golieb Fellowship program at NYU. His leading questions are fascinating and important; his source material is new; and his writing is smart, subtle, and careful. Mina is also a wonderful person. You and the other members of your chambers will benefit from and enjoy Mina's presence.

Let me step back to explain how, and what, I know about Mina's scholarship. Mina was a Golieb Fellow at our law school last year, 2019-20. We typically have two fellows each year (putting aside pandemics), and it is always difficult to make the final acceptance decision. What struck me and the rest of the committee about Mina's project was its originality. That was not because we were all more or less ignorant of Islamic legal history—though, in fact, we were. Instead, we could see that Mina's research was itself innovative. Some of us like to think that we have crawled through many and difficult archives. Mina's stories about doing research in Egypt over this tumultuous decade surpass any I could tell—or even have heard. Really, they deserve their own article, about researching the historical development of Egyptian law as that nation's political seasons changed so rapidly. If nothing else, we knew that, to navigate the official archives, Mina must be an accomplished linguist, a dogged sleuth, and a part-time diplomat.

He is all that, and much more. Mina's project—his dissertation, as well as the book it is becoming—explores the development of Egypt's national legal system amidst a contest between two empires, the Ottoman and the British, for influence over its territory. Fascinating intellectual, religious, and cultural currents swarmed around the lawyers and legislators who made the legal system on Egyptian ground. In the chapters I have read, Mina analyzes the development of criminal law and especially criminal procedure. The result is not dry, traditional doctrinal history. Far from it. Mina is interested in who made decisions about the use of state violence, how they made them, and for what purpose. That purpose was state-building. The kind of state being built was precisely what was at issue in questions like how much protection to give criminal defendants, for example, and what was meant by "reasonable doubt." Mina's careful excavation of the contested answers to these and other questions central to the encounter between state and subject promise to reveal much about Egypt, the vicissitudes of empire, the melding of different legal systems, nascent postcolonialism, and, not least, criminal law.

I can also attest to Mina's ability to relate well with colleagues, both more senior and junior. The Legal History Colloquium at NYU functions as both a class and a workshop, and students who enroll must write a series of response papers about the manuscripts presented. The Golieb Fellows comment on each of those student papers. In addition to requiring close reading of the main paper, the exercise puts the fellows in regular dialogue with students, through email and in class. Mina was very good in that capacity, too: incisive, reliable, and, as always, gentle.

One last thing. I get the sense that Mina feels a bit like an outsider. Of course, although he emigrated from Egypt, he has spent years at such insider institutions as Stanford, Harvard, Penn, and NYU. But I sense that he does not see himself as fully part of such places, even when residing within them. Now, this raises some deep questions of what it might mean to belong at any of these institutions, much less all. Still, something else is at play, and although it might make Mina uncomfortable within, that never displays itself as discomfort outside. It is possible that this is actually a healthy trait that will keep him the sincere, honest, creative, and hardworking scholar that he is today, for many years.

Please let me know if you have any questions.

Sincerely,

Daniel J. Hulsebosch

Daniel Hulsebosch - daniel.hulsebosch@nyu.edu - 212-998-6132

March 28, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I know Mina Khalil and his work very well. He was a student in my First Amendment course and came to office hours regularly. Then I supervised a terrific long paper he wrote that was based on field research he conducted in Egypt. I am pleased to recommend him enthusiastically for a clerkship in your chambers. He has the intelligence, research skills, writing ability, and linguistic competence, and strong legal training to do first-class work.

Mina is ideally suited to engage in critical research and will be a true asset in chambers. In December 2010 he left for Egypt to study the political and legal position of the Coptic minority. While he was in country, Egypt entered into its present period of transition. Mina's fluent Arabic, his legal sophistication, his interview skills, and his natural enthusiasm put him in close touch with civil society activists, some of whom he knew already from his internships and study abroad in Cairo before he started law school. He shifted topic subtly to incorporate the developments that were occurring daily, and produced a really excellent, comprehensive paper after months of serious library research. When published, it will be the best thing written on the Copts in the question of religious minority rights in the Egyptian constitutional scheme.

Mina is analytically sharp, creative, and good reader of political culture. He writes extremely well, and is also a skilled advocate and his skills will enable him to contribute meaningfully to debate. Mina has a seriousness of purpose that will make him a committed and serious clerk. And, his knowledge of constitutional law enables him to contribute significantly from the very beginning.

It is rare to be able to say with certainty that a clerkship applicant also has the capacity to make an appreciable impact on a crucial world situation. This is one of those cases. I urge you to hire Mina. You'll be glad you did.

Sincerely yours,

Noah Feldman
Felix Frankfurter Professor of Law
Harvard Law School
Cambridge, MA 02138

Noah Feldman - nfeldman@law.harvard.edu - 617-495-9140

March 28, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
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Sincerely yours,

Noah Feldman
Felix Frankfurter Professor of Law
Harvard Law School

Noah Feldman - swhalen@law.harvard.edu

Writing Sample, Mina E. Khalil
Excerpt from Dissertation, *A Society's Crucible: Forging Law and the Criminal Defendant in Modern Egypt, 1820-1920*
(University of Pennsylvania, 2021)

Cover Sheet

The following is an excerpt from my Ph.D. dissertation, *A Society's Crucible: Forging Law and the Criminal Defendant in Modern Egypt, 1820-1920* (University of Pennsylvania, 2021). The excerpt is taken from the second chapter, which addresses questions regarding the shifts that took place in criminal intent in nineteenth-century Egypt. The material for this chapter is gleaned from two years of intensive archival research I conducted in Egypt and Europe, including the Egyptian National Archives (*Dar al-Wathā'iq al-Qawmiyya*) in Cairo, where I parsed registers in handwritten Arabic to collect court cases in support my argument. The original Arabic phrasing is included in transliterated form in parentheses, but all primary Arabic sources have been translated.

Writing Sample, Mina E. Khalil
 Excerpt from Dissertation, *A Society's Crucible: Forging Law and the Criminal Defendant in Modern Egypt, 1820-1920*
 (University of Pennsylvania, 2021)

Chapter Two

Scrutinizing the Criminal Mind

“Your soul alone is the issue here...”
 – Arthur Miller, *The Crucible*

NEGLIGENCE IN A KITCHEN (1868)

On January 29, 1868 (Shawwāl 4, 1284), a Cairo police station received a grievously injured young girl named Jamīla. Brought there by her father, ‘Alī Ḥasan, a stonemason (*naḥḥāt*), the state’s local head physician (*ḥakīm bāshī*) examined the young girl. Noting her tender age of four or five years old and that she had deep burns on her face, chest, and thighs, the physician then ordered that she be taken immediately to the nearest khedival hospital. However, Jamīla died on the way. The police looked to her father for answers. He informed them that he had left his daughter with her mother Badawīya earlier that Saturday morning to go to Cairo’s thousand-year old cemetery (*al-Qarāfa*), and when he returned home later that evening, he found her covered with burns. When he asked Badawīya what had happened to their daughter, she explained to him, and later relayed to the police who confirmed her testimony with the neighbors. She said that she was cooking in the kitchen with their daughter sitting next to her, and she left her by herself for some time, as she stepped out to buy some food from the local store. When she returned she found her on fire from the flames emanating out of the coal stove (*fa wajadat al-nār muwwaqada fīha*). Terrified at the sight she saw, Badawīya ran to extinguish the flames that had consumed her daughter, but they had already marked the young girl and her fate. The police investigation that ensued concluded that the burning that took Jamīla’s life was “without the act of an actor” (*min dūn fi’l fā’il*), noting that “there was no one at all present in the house” (*lam yakun aḥadn ḥāḍir bil-manzil muṭlaqan*). With no signs of a criminal actor having

Writing Sample, Mina E. Khalil
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the intent to inflict pain on the young girl, her death was accepted as a destined act of God (*fā huwa bil-muqtaḍā wa al-qadar*).¹

Why were neither Badawīya nor her husband censured or punished by the authorities for the negligence in caring for their infant daughter? The history of criminal negligence in nineteenth-century Egypt raises important questions about the treatment of others, and how such treatment was affected by the state and the laws it applied. It also raises equally important questions of why and how someone came to be seen as culpable and worthy of punishment before a modern criminal law in nineteenth-century Egypt. In *Formations of the Secular* (2003), Talal Asad answers these questions by interrogating the idea of criminal agency that became part of modern criminal law, positing it as a modern secular concept foregrounded in an agentive resistance aimed at eliminating pain and suffering.² Seen in this light, the modern criminal law came to be based on a notion of criminal agency, in which defendants bore harmful intentions that could in essence be changed according to an actor's desire, and that the criminal law would be an incisive tool to mold individual behavior in order to eradicate pain and suffering in society. Asad assumes that this concept of criminal agency *within* the law had been absent prior to the late-nineteenth-century European-modeled legal codifications that took place in Egypt and finally gave birth to concepts of criminal negligence and criminal intent aimed at eliminating pain and suffering, notions that were absent in the adjudication of Jamīla's tragic case. In making this argument, Asad then set out to provide a clear answer to his own question of "how did a model of agency become paradigmatic?"

¹ DWQ 2003-001121. Dabṭīyat Miṣr. 5 Shawwāl 1284.

² Talal Asad, *Formations of the Secular: Christianity, Islam, and Modernity* (Stanford: Stanford University Press, 2003): 68.

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In this chapter, however, I problematize this historical account of criminal agency and how it came about in modern Egypt. I argue that the practice of finding culpability at the behest of a khedival state across the nineteenth century had already existed prior to the legal concepts found in the codes and treatises that eventually reached and were brought to Egypt at the behest of Western powers, and that designed and explained new institutions that emerged at the end of the nineteenth century. Through close readings of administrative court cases, police logs, consular court records, public administrative letters, as well as numerous laws and legal treatises across the nineteenth and early-twentieth centuries, I illustrate how a modernizing khedival state had already set out to search for and to apprehend those it deemed to have dangerous minds worthy of punishment within the Pasha's domain prior to the seemingly upending colonial legal changes that took place at the end of the nineteenth century. This khedival search for culpability, I argue, transformed into a certain introspection of the criminal defendant before judicial authority by the early twentieth century.

A central point in this chapter is that this judicial introspection of the defendant's guilty mind took place gradually across the nineteenth and early-twentieth centuries before Egypt's modern administration of justice. The change in the treatment and definition of criminal intent, therefore, did not occur suddenly at end of the nineteenth century at the behest of colonial powers or colonial legal transplantation.³ Instead, shaped by the needs of a khedival administrative state and its practices across the nineteenth century, this transformation first entailed the search, investigation, and apprehension of culpability beyond observing its traditional manifestation. These attendant changes in culpability before the law, however, also

³ *Id.* Asad contended: "A crucial point about pain, however, is that it enables the secular idea that 'history-making' and 'self-empowerment' can progressively replace pain by pleasure—or at any rate, by the search for what pleases one" (68).

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entailed looking for motive or perceived negligence when committing crime. Essentially, this modern search for culpability before khedival authority in ways distinct from what the legal tradition prescribed would morph into a judicial introspection under colonial authority by the end of the nineteenth century. This judicial introspection became noticeable in the redefinition of existing crimes, including premeditated murder and the birth of new intentional crimes including attempt. Beyond the administrative state's needs, the legal changes in the definition of criminal intent were also fueled by the emerging sciences of criminal psychology and their assessment of the criminal psyche.⁴ In light of these theories, I argue in this chapter that a new “criminal mind” emerged, rethinking the criminal defendant. The transformation entailed a considerable shift from what was considered “apparent” (*al-ẓāhir*) to what was traditionally considered “hidden” (*al-bāṭin*) in the mind of the defendant. In this sense, the shift took place from one doctrine into another doctrine that this chapter aims to show.

To make this argument, this chapter follows in three sections. The first section draws out some of the elements of criminal agency and negligence within the Islamic legal tradition as applied in Ottoman Egypt for centuries prior to the nineteenth century. In doing so, it challenges characterizations of the Islamic tradition as devoid of applied concepts of criminal agency or negligence—highlighting the physical externalized circumstances in intending, knowing, and completing a harmful or negligent act. The second section shows how criminal intent and criminal negligence, thus, came to be treated within the legal system of Egypt's emerging modern state during the first three quarters of the nineteenth century. By considering defendants' motives to commit crime and their subjective states of mind, the khedival administration of

⁴ See Michel Foucault, *The History of Madness* (New York: Routledge, 2006).

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justice went beyond the legal tradition to determine whether defendants were guilty and worthy of punishment. The third section of this chapter then examines how this administratively-molded criminal intent changed further through the second decade of the twentieth century. During this period, new definitions, legal expressions, and applications of intentional crimes—notably premeditated murder, attempt, suicide, and other crimes considered deleterious to society's well-being—formed a new legal discourse and substantively redefined the substantive criminal law. Nevertheless, as this chapter argues, the process of legal transformation of a criminal mind deemed harmful to society began not only in theory that arrived from Western laws and legal treatises but also through practice, internally, across the nineteenth century, paving the way for the theoretical reassessment of the criminal defendant's guilty mind within modern Egypt.

SHARĪ'A'S INTENT

Intending to Harm

Prior to the nineteenth century, illicit acts such as homicide would have been scrutinized by an Ottoman administration of justice. Indeed, if someone were found to have directly caused the death of a young girl like Jamīla, he or she would have been handed some form of punishment. A person—whether man or woman, Muslim or non-Muslim, free or slave—who *intentionally* or *deliberately* killed another (i.e., murdered) received punishment,⁵ qualified for the death penalty following precise rules of retaliation (*lex tallionis*, or *qiṣāṣ* in Arabic).⁶ Yet before these harsh rules of punishment determined the fates of those found guilty of murder or

⁵ See Fariba Zarinebaf, *Crime & Punishment in Istanbul, 1700-1800* (Berkeley, CA: University of California Press, 2010). See Elizabeth Papp Kamali, *Felony and the Guilty Mind in Medieval England* (Cambridge: Cambridge University Press, 2019): 51-64.

⁶ Ibn Rushd, *Bidāyat al-Mujtahid wa Nihāyat al-Muqtaṣid* [The Distinguished Jurist's Primer, Vol. II] (Imran Nyazee, trans.) (Reading, UK: Garnet Publishing Limited, 1996): 486. See Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Oxford University Press, 1964): 181. See N. J. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 2011): 18. See Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-first Century* (Cambridge: Cambridge University Press, 2005): 20 [hereinafter, Peters]. See Paul R. Powers, *Intent in Islamic Law: Motive and Meaning in Medieval Sunnī Fiqh* (Leiden: Brill, 2015): 171.

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other crimes, plaintiffs first had to assert and prove in court before the judge that the defendant had the requisite intent to kill or harm, thereby bearing a so-called “guilty mind” (or *mens rea*, referred to in Arabic as *‘amd* or *qaṣd*).⁷ In the absence of the prosecution’s proof, the defendant had to confess to having killed or injured another intentionally.⁸ Whether through proof or confession, in order to find the defendant worthy of bodily punishment, the condemned act could not simply be the result of a tragic accident or the veiled will of God.

Criminal intent, however, could not be easily disentangled from the mental and physical capacities of its actor. Guilt depended on sanity, and guilty defendants had to appreciate the nature of the crimes they committed in order to be held accountable for them.⁹ While literary accounts of the madman (*majnūn*) in medieval Islamic society abounded in the literature, the treatment of the insane and their culpability before Islamic law remained distinct.¹⁰ In doing so, like their medieval and their modern counterparts, Muslim jurists turned a defendant’s insanity into a valid legal defense against punishment.¹¹ They also recognized a correlation between mental capacity and physical capacity (both age and sexual maturity) as puberty (or *bulūgh*) also made a defendant ripe for prosecution.¹² Measured by these physical metrics of legal responsibility,¹³ both minors and the insane, therefore, could not actually be capable of bad intent (*‘amd*), and their acts were viewed as an accident or mistake (*khaṭa’*), thus saving them

⁷ *Id.*

⁸ See Guy Bechor, *God in the Courtroom: The Transformation of Courtroom Oath and Perjury between Islamic and Franco-Egyptian Law* (Leiden: Brill, 2012).

⁹ Peters, 21.

¹⁰ See Michael W. Dols, “Insanity in Islamic Law,” in *Majnūn: The Madman in Medieval Islamic Society* (Oxford: Oxford University Press, 1992). See also Michel Foucault, *The History of Madness* (New York: Routledge, 2006).

¹¹ Schacht, 182. Conversely, self-defense against an insane or minor also became invalid “because the insane and minor are not *mukallaf* [legally responsible] and therefore not responsible for their acts.” As Dols noted: “Medieval Islamic legal theory regarding insanity should be placed in its context of legal traditions both before and contemporary with it, rather than in isolation. The purpose in doing so is not necessarily to detect influences or borrowings in Islamic law but to distinguish what was commonplace and what was distinctive about the legal treatment of the insane in the medieval Middle East” (#).

¹² Ibn Rushd, 479. Schacht, 124.

¹³ *Id.*

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from the sword.¹⁴ Women, as they were also seen in other contemporary settings, were considered by some schools of law to be less rational and thereby not capable of forming the requisite criminal intent in some instances to warrant punishment, such as the crime of highway robbery.¹⁵ Mapping the mind onto the body of the defendant, however, did not always work out so neatly. While minors escaped capital punishment, some jurists equivocated on eliminating their criminal responsibility altogether because these jurists could not squarely fit as to whether their acts were committed “between malice and mistake.”¹⁶ An acceptance of the evolving mental capacity of the child brought to bear the equivocality that persisted regarding the defendant’s mind and body within some corners of the legal tradition. Proving culpability, thus, appeared to depend not only on the accused’s awareness of the harm caused (the defendant’s mind), but it also subsumed into it the accused’s physical attributes (the defendant’s body) as a prerequisite for committing the crime.

Considering a defendant’s mind and body, judicial actors, therefore, looked for the voluntariness or willfulness of the accused, setting it as the centerpiece of culpability. In some way, the will of the accused had to pierce through the presumption that the harm caused was not the result of coercion, an accident (i.e., without a human actor), or an inexplicable act of God.¹⁷ Rather, to be found guilty of murder or assault, for example, as classical Muslim jurists put it, a defendant had to have “freely chosen to act directly” (*mukhtāran lil-qatl mubāshir*).¹⁸ What it meant to act directly (*mubāshir*), however, became the subject of intense debates and raised a number of questions regarding the agency of the defendant (or her legal capacity) to commit

¹⁴ Peters, 21.

¹⁵ Peters, 34. Kamali, 61. Kamali noted that: “This view of women, emphasizing limits to their agency, helps explain some felony acquittals, as might religious understandings of women as less rational than men by nature.”

¹⁶ Ibn Rushd, 499.

¹⁷ See Mairaj U. Syed, *Coercion and responsibility in Islam: a study in ethics and law* (Oxford: Oxford University Press, 2017).

¹⁸ Ibn Rushd, 479.

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crime. For instance, some jurists thought that a master or prince (*amīr*) who coerced a servant (*mā'mūr*) to kill or injure another was the one to be found guilty of murder or assault because they saw his servant as being entirely under duress and, thus, lacking the requisite free will to harm.¹⁹ The coerced agent thereby entered the classical legal textbooks portrayed “as one falling from a height, or swept by the wind from place to place.”²⁰ Still yet, while this image of an aimless actor informed *fiqhī* views on criminal agency, it defined less a defendant's disposition, let alone his or her predisposition, to commit crime than it categorized an illicit act as existing entirely within or without the bounds of human will.

A defendant's criminal intent within the tradition, nevertheless, remained cast into doubt. The specific intent or purpose (*'amd*) to kill, injure, or steal was situated not within the inner corners of the defendant's mind, but rather upon the external circumstances by which the guilty act (whether homicide, assault, or theft) was carried out.²¹ For homicide and assault, for example, these circumstances involved not only the manner by which “the blow was struck” (for example, aggressively or inadvertently), but also quite crucially, the kind of weapon used to bring about death or injury.²² Classical jurists agreed that in the absence of a defendant's confession of murder or assault, some injurious weapon (*āla jāriḥa*) had to be used in order to prove deliberate intent,²³ but they disagreed about the type of weapon that was to be used. The majority of jurists thought that it was a weapon (such as a sword) that “normally would produce

¹⁹ Ibn Rushd, 479-80. Powers, 23.

²⁰ Ibn Rushd, 480.

²¹ Rudolph Peters, 43. Peters insightfully observed: “Since the jurists felt that it is impossible to establish a person's state of mind, such as the intent to kill, they adopted an external, objective criterion for determining whether or not a killing or wounding was intended: the weapon or means that were employed” (43). See Intisar Rabb, *Doubt in Islamic Law* (Cambridge: Cambridge University Press, 2015).

²² Ibn Rushd, 481.

²³ See Colin Imber, *Ebu's-su'ud: The Islamic Legal Tradition* (Stanford, CA: Stanford University Press, 2009): 237. See Schacht, 181.

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death or injury” that clearly transferred intent unto a killer.²⁴ Still, others who were cognizant that a maligned heart also hid behind other deadly means, such as fire,²⁵ carved out a category of semi-intentional homicide (*shibh al-‘amd*) and placed less conspicuously deadly weapons such as sticks, poison, or water within it.²⁶ More strict jurists, however, viewed this created, middle-ground category as judicial overreach into the defendant’s heart—removing substantive doubt regarding true intentions knowable only to an omniscient God. Responding to this attack, those jurists who defended a gradient of mental states argued that since only God really knew true intentions, assigned verdicts (*hukm*) practically interpreted intent solely based on the so-called “apparent circumstances” (*wa innama al-hukm bimā zahara*).²⁷ It appeared that within the legal tradition, a notable reticence kept jurists from deciphering the intent of criminal defendants, but rather limited their scope of rational inquiry to the outward, physical circumstances of the criminal act.

In this same vein, while skepticism of human motives redirected the apprehension of a guilty mind during the nineteenth century, it had also motivated certain evaluations of maliciousness. A clear example of this was the case of murder by strangulation.²⁸ As no deadly weapons other than the killer’s hands stained the victim’s body, classical jurists still confronted unadulterated evidence of latent malice even in the absence of the deadly weapon they normally required for murder. Confronted with the serious problem of serial killers who strangled their victims to death, they had to find a solution for it outside of legal doctrine: administrative decree

²⁴ Peters, 43. Imber, 237.

²⁵ Ibn Rushd, 481.

²⁶ Ibn Rushd, 481. Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1982): 181.

²⁷ Ibn Rushd, 481. Ibn Rushd noted: “The reliance of those who deny that there is a middle category is on the argument that there is no middle ground between having an intention and not having an intention. The argument of those who uphold the middle category is that no one but Almighty Allāh is aware of true intentions, but the *hukm* is to be assigned (by humans) on the basis of the apparent circumstances” (481).

²⁸ Colin Imber, 237. In addition to strangulation, another problem that arose around criminal intent involved poison.

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(*siyāsatan*).²⁹ And as Ottoman criminal law declared, authorities could execute the recidivist murderer who repeatedly killed by strangulation.³⁰ Propelled to order Ottoman society, an administration of justice had already begun to dissociate the intent to harm from its transparent circumstances through some direct reading of the criminal defendant's subjective state of mind.

Nevertheless, aspects of the traditional concept still continued to shape the modern concept of criminal intent. For one, self-defense continued to be a valid excuse against punishment.³¹ Heat of passion served as a valid excuse for killing adulterous lovers caught in the act in the modern period as it did in the past. But conspicuously, an injurious weapon continued to symbolize criminal intent by the dawn of the twentieth century as it previously had within the legal tradition. Nevertheless, by the modern period, a guilty mind would be apparent for reasons beyond the physical circumstances that had circumscribed it.

Knowing the Wrong

In other significant ways, the defendant's state of mind continued to balance the scales of justice. Medieval Muslim jurists like their contemporaries elsewhere apprehended the criminal mind.³² They delineated three separate categories that approximated a defendant's knowledge of wrong: intentional, quasi-intentional, or accidental acts. Yet, they did not fully articulate a framework by which to assess criminal negligence—or what the defendant knew or should have

²⁹ Imber, 237.

³⁰ *Id.*

³¹ *Id.*

³² See Kamali, 36. In her study of the guilty mind in medieval England, Kamali acknowledged: "My examination of thirteenth-and-fourteenth-century evidence has led me to question the assumption that medieval English criminal law was dependent upon a notion of strict liability, or a worldview in which acts were inextricably bound up with fault regardless of the actor's intentionality" (36). Similar to Kamali's question of this assumption in medieval English law, some recent scholars of Islamic law have begun to rethink the assumption that Islamic law did not consider the interior intentionality of the defendant in determining culpability. My attempt here is to point to some areas in the *fiqh* tradition where we can question a similar assumption in Islamic law, and to show how an evolution of judicial introspection into the defendant's mind manifested itself in nineteenth-century cases in modern Egypt.

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known to be wrong—outside discrete rules of liability.³³ This led Islamic law scholar Joseph Schacht to forcefully assert: “The concept of negligence is unknown to Islamic law.”³⁴ More recent scholars similarly concluded that the treatment of criminal negligence within Islamic law holistically amounted to a system of strict liability.³⁵ By this, they meant that whether or not defendants knew about the wrong they caused, barring clear manifestation of their will to do wrong (through the weapon used or by confession), that fact did not subsequently affect their punishment or liability.³⁶ Similarly, this perceived reluctance within Islamic law to reconstruct and punish the defendant’s scienter (intent or knowledge of wrongdoing) reflected to some Orientalist scholars what they came to observe as a dulled individual subjectivity within Islamic art and literature.³⁷ Perceived through a modern Cartesian lens (*cogito ergo sum*), ascertaining culpability within Islamic legal doctrine appeared to delve less directly into the defendant’s mind than it assessed its externalized circumstances.

Some notion of negligence, nevertheless, seemed to approximate a defendant’s knowledge of wrongdoing within the legal tradition. For one, a concept of negligence (referred to in the legal literature as *taqṣīr*, meaning “to shorten” or “to cut short”) guided the doctrine

³³ Imber, 247-253. Colin Imber impressively traced the development of rules of negligence within Ottoman legal opinions in the sixteenth century. By doing so, he showed that the rules of negligence within Islamic law did not remain extant, but rather, they continued to be developed over the centuries. If Schacht had envisioned a holistic tort regime as in modern legal systems, then such an articulation of a comprehensive theory of negligence did not exist until its adoption at the end of the nineteenth century. Still, these different rules evincing a legal concern with negligence, nevertheless, mattered for the development of the law in Islamic society.

³⁴ Schacht, 182.

³⁵ See Paul R. Powers, *Intent in Islamic Law: Motive and Meaning in Medieval Sunnī Fiqh* (Leiden: Brill, 2015): 173. Powers puzzled: “The Islamic jurists’ treatment of intent in injurious acts combines what appear to be incompatible approaches, by taking account of intentions while also insisting on strict liability” (173). Yet, this seeming contradiction that he noted becomes less pronounced when taking into consideration social or communal obligations, not only individual obligations. A practice such as compurgation, which may be read as part-and-parcel of a strict liability regime, becomes a mechanism by which to find communities liable for personal injury.

³⁶ *Id.*

³⁷ See Dwight F. Reynolds, ed. *Interpreting the Self: Autobiography in the Arabic Literary Tradition* (Berkeley, CA: University of California Press, 2001).

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regarding the practice of compurgation (or *qasāma*).³⁸ Through this ancient practice, a community itself was held liable for a homicide committed by an unknown or unwitnessed killer. For this to be the case, however, the victim's body discovered presumably where the homicide took place had to be within a certain distance or "zone of danger" from the community itself.³⁹ In other words, for the community as a whole to be considered negligent in not preventing the unknown homicide, the act of killing had to make itself known to the ears (if not also the minds) of at least some members within that community. It was this "zone of danger" covered by a community's protective shield that also determined whether killing one's attacker qualified as valid self-defense, for if a homicide evaded the communal consciousness by avoiding the proverbial "zone of danger," then liability would not rest on the defendant who killed to protect herself.⁴⁰ Thus, at least from a communal perspective, a certain level of awareness of the committed wrong determined liability or punishment even if such knowledge only approached certain physical circumstances and did not search defendants' minds directly.

While a certain awareness of wrong continued to determine group liability, it also pointed to individual responsibility for reckless acts. Beyond delineating culpability into separate categories of intentional, quasi-intentional, or accidental acts; Muslim jurists also carved out another category for acts committed, albeit unintentionally, by the defendant.⁴¹ Referred to in the legal literature as homicide or injury "by cause" (*qatl bi-sabab*; *jarḥ bi-sabab*), this category of indirect causation (*tasbīb*) held defendants responsible (and their communities liable) for acts that came close to causing death or injury, not for those intervening and ultimate causes beyond

³⁸ Imber, 241.

³⁹ Peters, 81.

⁴⁰ Schacht, 184. Schacht noted: "The limits of self-defence are determined casuistically; in general, it is recognized only in a case of dangerous attack (not, for instance, of an attack with a stick in a city in daytime, in contrast with a similar attack outside a city or at night), also in a case of theft at night if it can be prevented only by attacking the thief, and in forcing access to water in a case of extremity if access to water is denied" (184).

⁴¹ Schacht, 181. Peters, 41-42.

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their sensibilities and control.⁴² Thus, for example, if a person fell into and subsequently died in a well that had been dug by another person on a public road because he tripped over a nearby stone placed there by a third person, then the third person paid because his act was the most immediate cause of the death.⁴³ By that same logic, if one person became injured by the kick of a donkey ridden by another person because a third person prodded that donkey, then the third person was responsible for the injury.⁴⁴ Through this constellation of separate rules,⁴⁵ some embryonic notion of criminal negligence appeared within the doctrine as defendants (*vis-à-vis* their communities) had to account for some acts recognizable, or at least recognized by the law, for their physical proximity to effected harm.

Some intimation of defendants' minds—what they actually believed—confirmed the commission of negligent acts, if less the omission of certain obligatory ones. Within the legal tradition, for an act to be judged as intentional, both the act and the result of that act had to be intended by the defendant as if he had intended to kill and actually did so. Conversely, for an act to be deemed accidental, both the act and its result had to be mistaken in the defendant's mind as if he had aimed to shoot an animal, but hit a person instead.⁴⁶ The accidental or negligent actor, like the coerced agent portrayed earlier, entered the *corpus juris* as one whose unrecognizable

⁴² *Id.*

⁴³ *Id.* Imber, 242.

⁴⁴ Imber, 242.

⁴⁵ In addition to proximate causation, this embryonic notion of negligence also factored property ownership, yielding its own rule of premises liability. Generally, and in contrast to a common law rule of occupiers' liability, a defendant could not be found negligent for another's death or injury that occurred on his property. On the one hand, if a victim like Girgis Būtrūs had fallen into a well or was struck by a falling object while on the property of another such as the brothel, he or his heirs could not seek remedy for negligence on the part of the property owner. On the other hand, if he were killed or became injured while passing by because of a falling object coming from within the premises, then the owner would then be held liable for the negligent upkeep of his property. Thus, while this rule of premises liability placed the assumption of risk on the invitee or trespasser, it also seemed to buttress a precept of individual negligence again measured within (by) the external physical world.

⁴⁶ Peters, p. 43. Schacht, 181.

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acts were labeled as “without an actor” (*bi-dūn fi l fā'il*).⁴⁷ Still, the majority of jurists required an outward act by the defendant, especially for willful homicide; thus, negligently *failing to act* (or an omission) generally did not suffice to find liability, let alone a guilty mind.⁴⁸ Some classical jurists, however, did hold a defendant responsible for certain omissions “but only if the omission [was] linked to a positive act,” such as withholding food and drink from a prisoner or “for the negligence of a midwife who fails to tie off the umbilical cord after cutting it.”⁴⁹ It stood that while rationally examined within the legal tradition, a defendant’s negligence, as with purposeful intent, remained intrinsically and predominantly tied to an apparent act in question.

While rules of negligence within the legal tradition became refined from the fifteenth to the sixteenth centuries, a more robust concept of it and its application would come about by the end of the nineteenth century. As Colin Imber has already noted, negligence continued to be recalibrated through the individual opinions offered by Ottoman jurists-consults as early as the sixteenth century.⁵⁰ Alongside these subtle changes in the law of negligence, more traditional practices like compurgation that evinced the treatment of negligence continued to take place in Egypt until the late nineteenth century.⁵¹ This recalibrated modern notion of negligence, as we shall see below, would crystallize even further under khedival and colonial administrations of justice across the nineteenth and early twentieth centuries.

Completing the Crime

Quite noteworthy of these modern legal shifts, a defendant’s mind began to stand out as more culpable in the light of a completed crime, how it was performed, and by whom. A

⁴⁷ *Id.*

⁴⁸ Peters, 20-22.

⁴⁹ Peters, 42.

⁵⁰ See Imber, 247-253.

⁵¹ See Rudolph Peters, “Murder on the Nile: Homicide trials in 19th century shari‘a courts,” *Die Welt des Islams* 3, no.1/4, (1990): 98-116.

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defendant's persona historically mattered for the perpetration of crime. But it was not only mental clarity and adulthood upon which the law predicated culpability; at times, it was also on the defendant's status as a free person or slave, or even on one's religion or sexual preference. For example, to be guilty of the capital punishment of adultery (*zinā*), both partners had to be adult, free, and Muslim (a combined legal status called *muḥṣan*).⁵² Consequentially, the act of adultery had to be completed by the penetration of the penis into the vagina, absolving anal sex from prosecution.⁵³ As for drinking wine (*shurb al-khamr*), this divine proscription generally punished the individual who imbibed alcohol, not the person who contemplated doing so.⁵⁴ Social standing, thus, determined different defendants' fates not only by affixing different punishments to them, but in some instances, it also revealed whether—on the authority of tradition—they committed any crime in the first place.

Yet, apart from a defendant's social status, the litmus test for culpability remained to be the accused act itself. The elements of the guilty act—the *actus reus*—not only had to be completed to warrant putting blame on the accused, but in some instances, they also had to be performed in a specific way in order to manifest willfulness. Thus, for defendants to be found guilty of murder or assault, they had to bring about the actual death of or inflict a visible wound on a victim, respectively: they could not simply contemplate or partially perform (attempt) the crime.⁵⁵ For theft (*sariqa*), similar to the requirement of asportation in the common law tradition, the culprit (or culprits) not only had to carry away the stolen property of another in order to

⁵² Peters, 61. See Hina Azam, *Sexual Violation in Islamic Law: Substance, Evidence, and Procedure* (Cambridge: Cambridge University Press, 2015): 189.

⁵³ Azam, 173. See also *Before Homosexuality in the Arabic-Islamic World, 1500-1800* (Chicago: The University of Chicago Press, 2005).

⁵⁴ Rabb, 161.

⁵⁵ *Id.*

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signal the intent to steal, but also had to do so with stealth.⁵⁶ And notably for the crime of adultery to send lovers to the gallows, its consummation entailed the witnessing of the actual penetration of the penis in the vagina “like the pen in the inkpot” (*ka’l-mīl fī’l-makḥala*).⁵⁷ As for the serious crime of banditry (*ḥirāba*), the defendants’ intent to disturb the peace became embroiled in the elementary drawing of their weapons on a public road in order to frighten those passing by on their journey.⁵⁸ To be worthy of blame, according to the tradition, the defendant had to intend the crime, but her intent, especially after the example of highway robbery which some jurists excluded women from, or signs of it at least, arose from the performance of the act itself.

Still, other signs or signposts along the way to a completed crime captured, or suggested at least, a defendant’s state of mind when carrying it out. The circumstances enveloping the culpable act tellingly betrayed before the court if the defendant held an intent or motive to do something wrong. Judicial actors looked for these signals and often built their verdicts of guilty or innocent upon them. Therefore, the type of weapon revealed the intent required for the corporal punishment of murder and assault (*qiṣāṣ*). Similarly stamping the crime of theft and signaling an underlying intent to steal, the completion of the crime involved the carrying away of stolen property (of a value of more than ten dirhams) *from inside a securely guarded and locked place* (referred to in the legal literature as *ḥirz*).⁵⁹ And to complete the crime of banditry, Muslim jurists agreed that the culprits not only had to be armed, but their entire act had to take place

⁵⁶ Peters, 56. Hallaq, 316-17.

⁵⁷ Azam, 189.

⁵⁸ Peters, 57-59.

⁵⁹ Peters, 56. Peters noted five elements in the *ḥadd* crime of theft: 1) “surreptitiously taking away”; 2) “of (movable) property with a certain minimum value (*niṣāb*); 3) “which is not partially owned by the perpetrator”; 4) “nor entrusted to him”; 5) “from a place which is locked or under guard (*ḥirz*)” (56).

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“outside a city”—knowingly performed within the proverbial “zone of danger.”⁶⁰ These attendant circumstances of an act not only defined it as a crime, but that also pointed to a defendant’s guilty mind while carrying it out.

Being guilty, thus, depended on the defendant’s intent to complete the crime in question and actually accomplishing it. In fact, so pragmatically merciful was the juristic tradition that it found repentant culprits blameless in some instances even when they fully completed culpable acts.⁶¹ Such was the case with highway robbery, which as a crime against God, was prosecutable only after arrest by the authorities, and not before in the case of a culprit’s active repentance (or *tawba*).⁶² Similarly for theft, if the culprit returned the stolen property even after carrying it away, the crime lapsed and the accused could no longer be prosecuted for it.⁶³ It came to be that neither attempted theft nor attempt in general existed as separate crimes within the legal tradition,⁶⁴ let alone did it aim to punish a culprit’s so-called malignant disposition towards committing further wrongs.⁶⁵ And while an individual disposition to kill oneself was viewed as a sin (or *ithm*), delineating the relationship between the individual and Islamic society, neither

⁶⁰ Peters, 57.

⁶¹ Schacht, 176. Schacht noted, “The religious character of the *ḥadd* punishment manifests itself also in the part played by active repentance (*tawba*); if the thief returns the stolen object before an application for prosecution has been made, the *ḥadd* lapses; repentance from highway robbery before arrest also causes the *ḥadd* to lapse, and any offences committed are treated as ordinary delicts (*jināyāt*) so that, if the person entitled to demand retaliation is willing to pardon, blood-money may be paid instead or the punishment remitted altogether” (176).

⁶² *Id.*

⁶³ Peters, 57. As Peters pointed out, nevertheless: “Unlike homicide or bodily harm, the prosecution of theft is not a private matter. Once the case has been reported to the government (the *imām*) and the victim has demanded the application of the fixed penalty, he cannot pardon the defendant” (57).

⁶⁴ Rabb, 161. In discussing avoidance of punishment, Rabb noted “For Mālik, any deficiency in the elements necessary to complete a crime (that is, “elemental doubt”) voided criminal liability. Thus, he held that there was no *ḥadd* liability for mere attempts. For example, no *ḥadd* liability would apply to a thief who gathered materials with the clear intention to take someone else’s property but did not remove them from a secure location (that is, mere attempt); to a man found with an alcoholic drink in his hands who was not actually observing sipping the beverage; or to a couple discovered alone in a compromising position who did not actually have sex” (161).

⁶⁵ *Ibid.*, 38. Rabb pointed to a prominent feature of the Islamic legal tradition—legal maxims—that served to protect the criminal defendant from erroneous prosecution. One such maxim—“avoid imposing criminal sanctions in cases of doubt: *idra’ū ‘l-ḥudūd bi’l-shubahāt*” (38), for example, stood against the formation of a robust model of criminal behavior.

Writing Sample, Mina E. Khalil
 Excerpt from Dissertation, *A Society's Crucible: Forging Law and the Criminal Defendant in Modern Egypt, 1820-1920*
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suicide nor attempted suicide ever rose to the level of being punished as crimes within the legal tradition.⁶⁶ The legal tradition concerned with doubt of the accused's guilt fashioned culpability primarily on the defendant completely and without remorse committing the crime in question, not on any wavering attempts or even sufficient, yet retracted steps to do so.

Even if earlier administrations of justice forgave attempted or renounced crimes, they tended to be more alarmed by those who participated in or conspired to do wrong. Ottoman sultans were less forgiving of subjects who conspired or were complicit in political machinations and collective action taken against them.⁶⁷ This vigilance became especially heightened during the nineteenth century, as new surveillance methods including telegraphs, telephones, and railroads met an existing concern—if not paranoia—of spies within the late Ottoman Empire.⁶⁸ When it came to conspiracy, the so-called “meeting of criminal minds” called for the capital punishment of highway robbers,⁶⁹ as classical jurists declared all the robbers guilty of this “collective crime” even if only one of them committed the “aggravating act.”⁷⁰ Still, the law of conspiracy as with the law on attempt remained constrained within the Islamic legal tradition.

Notwithstanding their limits within the legal tradition, inchoate offenses reached their apex in Egypt by the end of the nineteenth century. A new legal practice and lexicon developed to cover premeditated murder and attempt by the early twentieth century. Underlying these significant shifts in the law was also a transformation of the substantive doubt contained in the

⁶⁶ See Franz Rosenthal, “On Suicide in Islam,” *Man Versus Society in Medieval Islam* (Dmitri Gutas, ed.) (Leiden: Brill, 2015). Lanver Mak, *The British in Egypt: Community, Crime, and Crises, 1882-1922* (London: I.B. Tauris, 2018): 157-8.

⁶⁷ See Colin Imber, *The Ottoman Empire, 1300-1650: The Structure of Power*. 2nd edition (Basingstoke, UK: Palgrave Macmillan, 2009). Donald Quataert, *The Ottoman Empire, 1700-1922* (New York: Cambridge University Press, 2000).

⁶⁸ See Ibrahim al-Muwaylihi, *Spies, Scandals, and Sultans: Istanbul in the Twilight of the Ottoman Empire* (Translated and introduced by Roger Allen) (Maryland: Rowman and Littlefield Publishers, Inc., 2008).

⁶⁹ Peters, 58. Peters noted: “Banditry is envisioned as a collective crime, which means, in the opinion of all schools but the Shafi’ites, that if the aggravating act is committed by one of the robbers, all of them are liable for the consequences. Thus, all of the bandits must be sentenced to death if one of them has killed” (58).

⁷⁰ *Id.*

Writing Sample, Mina E. Khalil

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legal tradition and that subsequently shielded the criminal defendant from judicial introspection of her mind. Where that doubt predicated the accused's guilt directly on the performance of the act itself, accounting mainly for its externalized circumstances in the physical world, the modern period saw a substantive shift from this act-based culpability to an intent-based one.

Applicant Details

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Middle Initial	N		
Last Name	Lewis		
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Address	<table> <tr> <th>Address</th> </tr> <tr> <td> Street 1004 Jackson Street City Nashville State/Territory Tennessee Zip 37208 Country United States </td> </tr> </table>	Address	Street 1004 Jackson Street City Nashville State/Territory Tennessee Zip 37208 Country United States
Address			
Street 1004 Jackson Street City Nashville State/Territory Tennessee Zip 37208 Country United States			
Contact Phone Number	7316974142		

Applicant Education

BA/BS From	Middle Tennessee State University
Date of BA/BS	May 2008
JD/LLB From	Vanderbilt University Law School
	http://law.vanderbilt.edu/employers-cs/judicial-clerkships/index.aspx
Date of JD/LLB	May 15, 2016
Class Rank	School does not rank
Does the law school have a Law Review/Journal?	Yes
Law Review/Journal	No
Moot Court Experience	No

Bar Admission

Admission(s)	Tennessee
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Prior Judicial Experience

Judicial Internships/
Externships **No**
Post-graduate Judicial Law
Clerk **No**

Specialized Work Experience

Specialized Work
Experience **Appellate, Bankruptcy, Patent, Pro Se**

Recommenders

Blair, Margaret
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References

REFERENCES

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

February 10, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I am likely not your typical applicant. I am a 34-year-old, first generation college graduate and second-generation high school graduate. After starting college at Jackson State Community College, I have taken courses at Harvard and earned advanced degrees in business, science, and law from the University of Tennessee, Columbia, and Vanderbilt. I have hands-on business experience with my family's third-generation pest control company, but I began working there crawling under houses to spray for termites, jack up floors, and pull out insulation. With my humble background, I can easily identify and empathize with people of all educational and socioeconomic backgrounds. I am a 2016 graduate of Vanderbilt University Law School and am writing to apply for a clerkship in your chambers.

First, my summer with a Tennessee DA's Office showed me the complexities of a six-defendant kidnapping, rape, and murder case without a body while contemplating the death penalty, and it helped me to understand how courts must balance the rights of the accused, needs of the victim, and interests of the public. *Second*, my experience as a research assistant allowed me to hone my legal research and writing skills to produce publication-ready material. *Finally*, my time in civil litigation since graduation has shown me real-life court experience in multiple areas of practice that include commercial, constitutional law, and intellectual property litigation. All of these experiences have given me a legal toolkit which will allow me to contribute meaningfully to your chambers.

Attached for your review are my résumé, law school transcript, writing sample, and list of references. The writing sample is an excerpt from a memorandum of law I drafted for co-counsel regarding a contested divorce. Contact information for Vanderbilt University Professors Mike Vandenberg and Margaret Blair, as well as attorney Justin Kinsland with whom I regularly work, will also accompany my application packet. Thank you for considering my application. Please feel free to contact me if I can provide you with any additional information.

Respectfully,

Daniel Lewis

DANIEL NEAL LEWIS, JD, MBA

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EXPERIENCE

TRISTAR LAW, Nashville, TN, *Founding Attorney* **2016-Present**
General civil litigation firm. Handled all clients matters, from initial intake to final case disposition. Practice focused on commercial and IP litigation.

GARMON & ASSOCIATES, Birmingham, Alabama, *Associate, Constitutional Law* **2019-Present**
Consulted on collective actions implicating Constitutional rights, with a focus on prisoners and minors.

HILLIARD, MARTINEZ, AND GONZALES, Corpus Christi, TX **2020**
Associate, Mass Torts
Handled a caseload of 90,000 with a three-attorney team, including lead attorney on 6,000 cases. Case matters included Zantac (cancer, birth defects), opioids (addiction), Roundup (Non-Hodgkin's lymphomas), Singulair (adverse neuropsychiatric effects), HIV and Hep.-C treatment/PrEP (osteoporosis and kidney failure), and Evenflo booster seats (inadequate child safety).

VANDERBILT UNIVERSITY LAW SCHOOL, Nashville, TN **2014-2015**
Research Assistant, Professor Mike Vandenberg (Environmental Law)
Efficacy of Forest Sustainability Council (FSC) and feasibility of carbon taxing. Research later incorporated into *BEYOND POLITICS: THE PRIVATE GOVERNANCE RESPONSE TO CLIMATE CHANGE*, Vandenberg and Gilligan (N.Y., NY: Cambridge U. Press, 2017).
Research Assistant, Professor Margaret Blair (Corporate Law)
Remarks by Del. C.J. Strine on *eBay v. Newmark* and its mandatory approach to corporate purposes (i.e., "shareholder value maximization")
Survey of publications citing Thomas Donaldson's "theory of the corporation" Research incorporated into Margaret Blair, *Of Corporations, Courts, Personhood, and Morality: Essay in Honor of Thomas Donaldson*, 25 BUSINESS ETHICS QUARTERLY, 4, 415 (2016).

TENNESSEE DISTRICT ATTORNEYS GENERAL, 24th Judicial District, West TN, *Summer Intern*, **2014**
State v. Zach Adams et al. (Holly Bobo murder/rape/kidnapping case): Meetings w/ TBI personnel, investigators, and victim's family to discuss new evidence, case status, and prosecution strategy; researched capital murder cases w/o victim's body
Other cases: \$100k+ MediCare fraud case; \$10k+ firearms theft/assault case ultimately bound over to federal court

SERVALL, Paris, TN, *Chief Financial Officer and Vice President* **2008-2013**
Diversified services. Among 25 largest pest control companies in the US, 2nd largest based in TN. ~250 employees.
\$30M revenues; Financial modelling, forecasting, financial statement analysis, M&A due diligence
Accomplishments: Reduced annual fleet costs by \$200k (25%); Decreased annual chemical expenses by \$250k (10%).

EDUCATION

VANDERBILT UNIVERSITY LAW SCHOOL, J.D., Law & Business Certificate, GPA: 3.206 **2016**
VLS Rep. (2013-2015), Young Lawyers, Nashville Bar Assoc.; Treasurer (2014-2015), Representative (2013-2016), VLS Bar Assoc.; VP (2014-2015), Federalist Society; Hyatt Fund Board (2014-2015); VP (2014-2015), Law & Business Society; Mr. VLS (2013-2014); Mock Trial Semi-finals

UNIVERSITY OF TENNESSEE AT MARTIN, M.B.A., highest honors, Banking & Finance, GPA: 4.000 **2016**
Thesis: *Neel Kashkari's Criticism of "Too Big to Fail" Through the Lens of Bagehot, Friedman, and Bernanke*

COLUMBIA UNIVERSITY, Fu Found. School of Engineering & Applied Sciences, M.S., honors, Financial Engineering, GPA: 3.6 **2010**
Awards: Dean's Leadership Society; Fu Foundation SEAS Ambassador (dept. nom.); Columbia Alumni Representative Committee.
Thesis: *Neuropsychological Perspectives on Branding and Marketing Failures with "New Coke"*

MIDDLE TENNESSEE STATE UNIVERSITY, B.B.A., cum laude, Finance; Biology; and Psychology, Inst. GPA: 3.795 **2008**
Awards: Dean's list all semesters; Nat'l Dean's List; 3.75+ GPA all semesters, up to 30 hours/semester; Sole TN nom., Golden Key Int'l Scholar, Dubai Del. on Business; 1st place, team captain, Nashville JA Investment Challenge; Psi Chi Honor Society.

HARVARD UNIVERSITY, Visiting Student, Organic Chemistry **2007**
Harvard Summer Chorus; Intramural soccer team captain.

JACKSON STATE COMMUNITY COLLEGE **2004-2006**

COMMUNITY INVOLVEMENT

Eagle Scout. Board of Directors, Middle TN Council, Boy Scouts of America. Unit Commissioner, James E. West District.

Member, Buchanan Lodge #772; Al Menah Shriners; Nashville Scottish Rite.

Avid Mountaineer. Aconcagua (6,961m); Cerro Bonete (6,759m); Denali (6,190m); Mt. Rainier (4,392m); Mt. Adams (3,743m); Mt. Baker (3,288).

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CASES OF NOTE***Constitutional Law***

- *Gregory Snow et al. v. Etowah County Sheriff's Dept.* et al., No. 21-10365 (11th Cir., filed Feb. 25, 2021), appealed from 4:20-cv-00344-ACC (N.D. Ala., Nov. 24, 2020). 42 U.S.C. 1983 and A.D.A. collective action re: prison overcrowding.
- *Gabriel Byrdsong et al. v. A&E Television Networks, L.L.C.* et al., No. 31-CV-2021-900135.00 (Ala. Cir. Ct., Etowah Cty, filed Mar. 20, 2021). Unjust enrichment and defamation collective action re: profiteering from prison "documentary."

Intellectual Property

- *3rd Eye Surveillance, LLC & Disc. Pat., LLC v. Gen. Dynamics One Source, LLC et al.*, civ. No. 15-501-C (Ct. Fed. Cl., filed May 5, 2015). Kennedy Law, plaintiff counsel. Patent infringement of apparatus and process claims re: integrated surveillance analytics by defense contractors.
- *Battery Conservation Innovations, LLC v. Acco Brands Corp.* (N.D. Ill., 2022). Patent infringement of apparatus and process claims re: battery-conserving electronic device for wireless video game controller.
- *Qualitative Data Sol., LLC v. ABB; Siemens; Hubbell Bldg. Automation; Amber Sol., Inc.; Insteon/SmartLabs, Inc.; Frontpoint Sec.; /Lucis Tech., Inc.* (N.D. Ohio, 2022). Patent infringement of apparatus and process claims re: smart receptacles connected to power circuit of a building.
- *Touchpoint Projection Innovations, LLC v. StackPath, LLC; Tata Comm., Inc.; CDNetworks, Inc.* (N.D. Ohio, 2022). Patent infringement of apparatus and process claims re: data communications network connected by gateways.

Commercial Litigation

- *Caldwell v. Move On, et al.*, 18-c-633 (Tenn. Cir. Ct., Davidson Cty. 2021). \$6.9 million implied contract partnership dispute.
- *Hagye, et al. V. Servall, LLC*, 1:20-cv-01196-JDB-jay (W.D. Tenn. 2021). Defendant counsel in \$6 million Fair Labor Standards Act (FLSA) collective action alleging 29 U.S.C. 216 minimum wage and overtime violations. Settled prior to class action certification.
- Won additional \$475k in contested divorced by arguing for transmutation of marital property despite ante-nuptial agreement.

Mass and Toxic Torts

- *Waste Serv. of Decatur, LLC v. Decatur County, Tenn. v. Waste Indus. USA, LLC, Tenn. Aluminum Processors, Inc., Smelter Serv. Corp.*, 1:17-cv-01030-STA-jay (W.D.Tenn. Dec. 5, 2019). Sherrard Roe, plaintiff counsel. Toxic tort re: aluminum dross & slag disposal and EPA violation.
- *Phillip v. C.R. Bard Inc. et al*, 3:19-cv-01132-GTS-ML (N.D.N.Y.). Counsel for plaintiffs in MDL concerning Inferior Vena Cava (IVC) filter.
- *In Re: Zantac (Ranitidine) Prod. Liab. Litig.*, 20-md-2924, MDL No. 2924 (S.D. Fla., filed Feb. 6, 2020). 3-member team, 60,000 clients.
- *In Re: Nat'l Prescription Opiate Litig.*, 1:17-md-2804, MDL 2804, (N.D. Ohio, filed Dec. 2017). 3-member team, 20,000 clients.
- *In Re: Roundup Prod. Liab. Litig.*, 16-md-2741-VC, MDL No. 2741 (N.D. Cal., filed Oct. 4, 2016). Product linked to Non-Hodgkin's lymphomas.
- *Stephanie Hammar and R.S.B. v. Merck & Co. Inc.*, 1:2020cv01402 (E.D. Wis., filed Sept. 9, 2020). Filing attorney. Among the nation's first lawsuits re: adverse neuropsychiatric events resulting from Singulair. Sole attorney, 6,000 clients.
- *Holley et al v. Gilead Sci., Inc.*, No. 3:2018cv06972 – Doc. 75 (N.D. Cal. 2019). Re: tenofovir disoproxil (TDF) for HIV and HBV treatment/PrEP.
- *In Re: Evenflo Co, Inc., Mktg. Sales Practices & Prod. Liab. Litig.*, 1:20-md-02938, MDL No. 2938 (D. Mass., filed June 3, 2020). Re: "Big Kid" booster seats.

Daniel Lewis
Vanderbilt University Law School
Cumulative GPA: 3.206

Fall 2013

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Civil Procedure	Brian Fitzpatrick	B	4.00	
Contracts	Rebecca Allensworth	B+	4.00	
Legal Writing I	Barbara Rose, Jason Sowards	B	2.00	
Life of the Law	Suzanna Sherry, James Rossi	P	1.00	
Torts	Edward Cheng	B-	4.00	

Spring 2014

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Corporations	Margaret Blair	B+	3.00	
Criminal Law	Nancy King	B+	3.00	
Legal Writing II	Barbara Rose	B-	2.00	
Property	Michael Vandenberg	B	4.00	
Regulatory State	Edward Rubin	A-	4.00	

Summer 2014

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Externship-Outside Nashville	Susan Kay	P	6.00	Included death penalty trial (Holly Bobo kidnapping/rape/murder).
Research Assistant for Credit	Margaret Blair	P	1.00	
Research Assistant for Credit	Michael Vandenberg	P	1.00	

Fall 2014

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Campaign Finance & Elections	Robert Cooper, John Ryder	A-	2.00	
Comparative Corporate Governance	Georg Ringe	P	1.00	
Corporate Governance & Control	Randy Holland	P	1.00	
Corporate Litigation	Justin Shuler, Sam Glasscock	P	1.00	
Franchise Law	William Whalen	B+	2.00	
Government Contract Law	Darwin "Skip" Hindman	B	2.00	
IP Licensing	Suzanne Kessler	P	1.00	
Negotiation	Cheryl Mason	P	1.00	

The Criminal Jury Trial	Allison Danner	P	1.00
The Law of Secrets and Lies	Joseph Little	B	2.00

Spring 2015

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Constitutional Law I	Robert Mikos	B-	3.00	
Contemporary Issues in Real Estate	Martin Heflin	AU	3.00	
Establishment & Management of Non-Profit Organizations	Casey Summar-Gill	B+	1.00	
Federal Tax Law	Nancy Hale	B+	3.00	
Introduction to Private Equity	Abrar Hussain, Arshad Ahmed	P	1.00	
Mergers & Acquisitions	James Overby, Robert Rader	P	1.00	
Mergers & Acquisitions Deal Dynamics	Leo Strine, David Katz	AU	1.00	
Real Estate Development	Grant Kinnett, Dirk Melton	AU	3.00	
Real Estate Finance & Development	Herwig Schlunk	B+	3.00	
Succession Planning	Jerome Hesch	P	1.00	
Wills and Trusts	Jeffrey Schoenblum	B+	4.00	

Fall 2015

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Actual Innocence	Terry Maroney	B-	3.00	
Human Trafficking	John Cotton Richmond	AU	1.00	
Mediation	Larry Bridgesmith	P	3.00	
Partnership Taxation	Beverly Moran	A-	3.00	
Professional Responsibility	David Hudson	B	3.00	
Securities Regulation	Yesha Yadav	B+	3.00	
Supervised Research Project	Edward Rubin	A	2.00	

Spring 2016

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Administrative Law (Limited)	Edward Rubin	A	3.00	
Corporate Compliance & Internal Investigations	Eli Richardson, Patricia Eastwood	W	3.00	
Land use Planning	Christopher Serkin	B	3.00	
Private Mergers & Acquisitions	Howard Lamar, Robert Reder	P	1.00	
Regulation of Financial Institutions	Phillip Morgan Ricks	B	3.00	

Transactional Practice Workshop	Andrew Kaufman	P	1.00
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Grading System Description

A+ 4.3 A+ 4.0 A 4.0 A- 3.7 B+ 3.3 B 3.0 B- 2.7 C+ 2.3 C 2.0 C- 1.7 D+ 1.3 D 1.0 D- 0.7 F 0.0

Daniel Lewis
Columbia University, The Fu Foundation School of Engineering and Applied Science
Cumulative GPA: 3.600

Summer 2008

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Industrial Economics	Soulaymane Kachani	A	3.00	
Logistics & Transportation	Soulaymane Kachani	A-	3.00	

Fall 2008

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Industrial Budgeting & Financial Control	Lucius Riccio	A-	3.00	

Spring 2009

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Design & Management of Production & Service Systems	Lucius Riccio	A	3.00	
Introduction to Operations Research: Deterministic Models	Unknown	B+	3.00	
Introduction to Operations Research: Stochastic Models	Unknown	B	3.00	

Summer 2009

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Industrial Forecasting	Kosrow Dehnad	B	3.00	

Fall 2009

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Managing Engineering & Construction Processes	Mysore Nagaraja	A	3.00	
Pricing Models for Financial Engineering	Kosrow Dehnad	A+	3.00	

Spring 2010

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Artificial Organs	Edward F. Leonard	B-	3.00	



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Date Issued: 09-FEB-2022

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Page: 1

Issued To: Daniel Lewis
issued to student
pdf

Course Level: Graduate SUBJ NO. COURSE TITLE CRED GRD PTS R

Current Program

College : Business & Global Affairs
Major : Business Administration

Comments:

Comprehensive exam satisfied 12/9/2016
Degree Cum: EH= 40.00 GH= 34.00 Q= 136.00 GPA=4.00
SS# ****-8082

This transcript is issued by:
The University of Tennessee at Martin

Degrees Awarded Master Business Admin 10-DEC-2016
Primary Degree

College : Business & Global Affairs
Major : Business Administration
Maj/Concentration : MBA: General Business Option

Institution Information continued:

MKTG 710 Marketing Strategy 4.00 A 16.00
Ehrs: 15.00 GPA-Hrs: 15.00 QPts: 60.00 GPA: 4.00

Academically Eligible

Fall 2016

Business & Global Affairs
Business Administration
AGEC 710 Commodity Futures & Options 3.00 A 12.00
BADM 721 Critical Thinking 1.00 A 4.00
BADM 722 Ldrshp Group Dynamics Teamwork 1.00 A 4.00
FIN 710 Corporate Fin Mgt 4.00 A 16.00
MGT 710 Organization Theory & Design 4.00 A 16.00
MGT 730 Operations Mgt 3.00 A 12.00
MGT 790 Strategic Mgmt & Bus Policy 3.00 A 12.00
Ehrs: 19.00 GPA-Hrs: 19.00 QPts: 76.00 GPA: 4.00

Academically Eligible

SUBJ NO.	COURSE TITLE	CRED GRD	PTS R	*****	TRANSCRIPT TOTALS *****				
					Earned Hrs	GPA Hrs	Points	GPA	
	TOTAL INSTITUTION				34.00	34.00	136.00	4.00	
	TOTAL TRANSFER				6.00	0.00	0.00	0.00	
	OVERALL				40.00	34.00	136.00	4.00	
					***** END OF TRANSCRIPT *****				

TRANSFER CREDIT ACCEPTED BY THE INSTITUTION:

Spring 2014 Vanderbilt Univ

BLAW 7GR Legal&Ethical Envir of Bus 3.00 GRT
Ehrs: 3.00 GPA-Hrs: 0.00 QPts: 0.00 GPA: 0.00

Spring 2012 Univ Memphis

ACCT 711 Accounting for Managerial Dec 3.00 GRT
Ehrs: 3.00 GPA-Hrs: 0.00 QPts: 0.00 GPA: 0.00

INSTITUTION CREDIT:

Spring 2016
Business & Global Affairs
Business Administration

BADM 705 Sales&Mktg Res Fin Serv Ind 3.00 A 12.00
BADM 723 Creativity, Innovation&Design 1.00 A 4.00
ECON 710 Managerial Econ 4.00 A 16.00
FIN 721 Banking&Fin Serv 3.00 A 12.00

***** CONTINUED ON NEXT COLUMN *****

M. A. Barnett
The University of Tennessee at Martin
Registrar

February 12, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I am writing to you in support of an application by Mr. Daniel Lewis for a position as a clerk in your court. Mr. Lewis earned his JD degree from Vanderbilt University Law School in the spring of 2016. During his time at Vanderbilt, he was a student of mine in the spring of 2014, when he was enrolled in Corporations and Business Entities. He also did a "research for credit" project under my supervision during the summer of 2014.

Mr. Lewis has deep family ties to middle Tennessee and would like to stay in this region. He has an unusual mix of academic and work experiences which he would like to bring to bear in a clerkship experience in your court. The first in his extended family to graduate from college, he is a very hard-worker, who earned a B.S. in Science from Middle Tennessee State University (2008), a Master of Science from Columbia University (2010), a JD from Vanderbilt in 2016, with a Law and Business Certificate, took courses at Vanderbilt's Owen School of Management along the way, and simultaneously earned an MBA from University of Tennessee at Martin. He also has extensive management experience in his family's business. In the two years since he earned is JD and passed the Tennessee bar, he has been in private practice here in Nashville. These accomplishments have allowed him to work with a very wide range of people, and have given him a deep well of insight and knowledge in a broad range of sectors. I believe these experiences could allow him to make a substantial contribution to your court.

During the summer that he carried out a research project under my supervision (2014), I saw that he was thorough, meticulous, self-directed, and punctual in delivering each piece of the work he did for me. He immediately understands complex legal issues, and writes clearly and thoughtfully. I believe he would be an excellent law clerk, and I strongly urge you to consider hiring him.

Sincerely,

Dr. Margaret M. Blair
Professor of Law
Milton R. Underwood Chair in Free Enterprise
Vanderbilt University Law School

Margaret Blair - margaret.blair@law.vanderbilt.edu - 615-322-6087

February 12, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I am pleased to recommend Daniel Lewis for a judicial clerkship. Daniel is a 2016 graduate of Vanderbilt University Law School, and he is the founder of Tristar Law, his own general civil litigation firm here in Nashville, Tennessee. Daniel not only has more legal experience than the typical law clerk applicant, but also is a first generation college graduate who has worked in the trenches of the collegiate and small business worlds. He will bring a fresh perspective, initiative, a high level of energy, and strong analytical skills to the chambers.

I am familiar with Daniel's capabilities based on his performance in my first year property class and his independent research on several projects during his time at Vanderbilt. Daniel's grade point average and classroom performances early in his time at Vanderbilt are middle-of-the-pack, but he was one of the most active and valuable participants in my property class. He was insightful and willing to offer views even when other students were afraid to do so. He also performed well in a mock negotiation, which highlighted his maturity, analytical reasoning, and people skills. His writing on the final exam was sound, but he missed a few issues on the essay portion of the final exam and received a B for the class.

Not surprisingly for a first generation college graduate, Daniel gained momentum during his three years at Vanderbilt as he became more comfortable with the classroom experience and identified areas of strength and interest. For instance, he excelled in the classroom during his last semester, receiving an A in administrative law, as well as strong grades in land use planning and regulation of financial institutions. During his time at Vanderbilt, Daniel also served as a summer intern at the office of the Tennessee District Attorneys General in the 24th Judicial District and as a summer research intern at the Tennessee General Assembly. These experiences have broadened his perspective beyond the business world and will help him to hit the ground running across numerous issues as a law clerk.

Perhaps most important, Daniel demonstrated his remarkable brand of pluck and initiative in his research with me. After hearing about my research, he approached me about doing research on private sector certification and labeling systems for forests (e.g., the Forest Sustainability Council or FSC). His interests in business topics and experiences allowed him to provide genuine insights in his memoranda on these systems. Over a period of several months, he generated solid, well-researched, valuable memoranda on the status of these systems, and his work supported a law review article and a book on private governance.

Finally, Daniel has an engaging, genuine, and unpretentious yet confident demeanor. His experiences will add maturity and a fresh perspective to the chambers. He was popular among his classmates and will be a positive force among other clerks and staff in the office.

In short, I am confident that Daniel has the skills and temperament to succeed as a law clerk. If you have any questions, please do not hesitate to contact me at (615) 322-6763 or at michael.vandenbergh@vanderbilt.edu.

Sincerely,

Michael P. Vandenberg
David Daniels Allen Distinguished Chair of Law
Director, Climate Change Research Network
Co-Director, Energy, Environment and Land Use Program

Michael Vandenberg - michael.vandenbergh@law.vanderbilt.edu

February 15, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I am writing to recommend Daniel Lewis to you as a judicial clerk. Daniel was a student in my Administrative Law class in the Spring, 2016 term, and also carried out an extensive independent research project under my supervision. The Administrative Law course I teach follows the standard curriculum for this subject (I use the Gellhorn and Byse casebook), but the format of the class is atypical. It is limited to 16 students; each student writes three short papers about the reading for that week, then presents the paper in class and leads a discussion about the material. I meet with each student, after each of his or her three papers are presented, to critique the paper and the presentation. The idea behind this approach is to engage the students in active participatory learning, to simulate the features of a professional role, and to provide intensive supervision of their written work.

Daniel performed superbly in this class. His three papers (students choose the topics from a list) were about the liberty and property requirement for procedural due process (focusing on the case of *Board of Regents v. Roth*), the substantial evidence test for review of agency adjudication, and reverse Freedom of Information Act litigation (focusing on the case of *Chrysler v. Brown*). Each of Daniel's papers was well written, well researched and well organized. In addition, they demonstrated impressive analytic ability. In the first paper, Daniel assessed the role of the liberty and property standards, concluding that Chief Justice Burger's concurrence was the most effective and influential formulation. In the second, he analyzed Justice Scalia's assertion (as a Court of Appeals judge) that the substantial evidence standard for adjudication merged with the arbitrary and capricious standard for review of agency action in general. His final paper addressed a particularly complex decision, and argued, on policy grounds, that the private party seeking to prevent disclosure should bear the burden of proof. The purpose of closely supervising the students' writing is to enable them to improve their ability to communicate in written form. Daniel started off writing quite well, but he also was attentive and receptive to supervision, and ended the class as a truly skilled legal writer. He presented his work in class with clarity and poise, and was effective in leading the discussion that followed. He has a particularly amiable and gracious manner that greatly facilitates his ability to present complex ideas and elicit lively discussion.

After the class, Daniel asked me to supervise an independent research project on the idea of using ammunition control as a means of decreasing gun violence. He produced a work whose scale is simply unique in my entire teaching experience, a massive 80 page study with some 350 footnotes. After his encyclopedic description and analysis of the subject, Daniel reached the conclusion that ammunition should be regulated under the Brady Act. His argument is well reasoned and highly convincing, demonstrating a high level of analytic skill in addition to his remarkably assiduous research efforts. This is one of the best pieces of writing I have received in the course of my teaching career. The fact that Daniel would undertake such a project voluntarily indicates a truly impressive level of self-motivation and intellectual curiosity about the law.

In personal interactions, the affability and graciousness that Daniel displayed in the class continues. Daniel is a pleasure to work with. He listens well but also responds in a lively fashion. His ideas are thoughtful and often sophisticated, but he is down-to-earth and unpretentious. His level of intellectual curiosity is among the highest I have ever encountered in a law student.

In short, Daniel has my highest recommendation. He will be an excellent judicial clerk. Please let me know if there is any other information you would like.

Sincerely,

Edward L. Rubin
University Professor of Law and Political Science, Vanderbilt University

Edward Rubin - ed.rubin@vanderbilt.edu - 615-322-5620

DANIEL NEAL LEWIS

1004 Jackson Street, Nashville, Tennessee 37208

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WRITING SAMPLE

The attached writing sample is a Memorandum of Law I alone drafted, and my co-counsel Justin Kinsland and I submitted, in support of three Motions seeking to 1) enjoin sale of Defendant corporation stock, 2) enjoin issuance, allocation, and/or allotment of additional Defendant stock, and 3) recognize a constructive trust in which to hold Defendant stock. The case involved a partnership dispute in which our client, plaintiff James “Toddy” Caldwell, alleged that he had entered into a contract to purchase half of Move On Relocation, Inc., a moving and relocation services company, from Defendant Bryce Adkins in exchange for Caldwell’s sweat equity working for the company. Adkins disagreed and sold fifty-percent of Move On to Glenn McConnell, and the pair then sold fifty-percent of their purported ownership to five other investors. Accordingly, the Memorandum of Law examined four issues II(A)—(D):

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* * *

I. FACTUAL BACKGROUND

* * *

II. LEGAL ARGUMENT AND ANALYSIS

A. A PARTNERSHIP IN MOVE ON RELOCATION, INC., EXISTS BETWEEN PLAINTIFF JAMES "TODDY" CALDWELL AND DEFENDANT BRYCE ADKINS

Under Tennessee law, a partnership may be either expressly or impliedly formed, with or without a written Partnership Agreement. Tenn. Code Ann. § 61-1-202(a); *Kudrewski v. Estate of Hobbs*, 2001 Tenn. App. LEXIS 561, *10, 2001 WL 862618 (Tenn. App. Ct., filed July 30, 2001) (citing *In re Taylor & Assoc., L.P.*, 249 B.R. 474, 479 (E.D. Tenn. 1998)). Accordingly, "Partnership agreement means the agreement, **whether written, oral, or implied**, among the partners concerning the partnership, including amendments to the partnership agreement." Tenn. Code Ann. § 61-1-101(7) (2010) (emphasis added). In *Bass v. Bass*, 814 S.W.2d 38 (Tenn. 1991), the Tennessee Supreme Court considered the issue of when an implied partnership is formed. * * * *Bass*, 814 S.W.2d at 41 (emphasis added); see *Messer Griesheim Indus., Inc. v. Cryotech of Kingsport, Inc.*, 45 S.W.3d 588, 605 (Tenn. App. Ct. 2001); *Story v. Lanier*, 166 S.W.3d 167 (Tenn. App. Ct. 2004).

Furthermore, "the receipt of a share of the profits of that business is *prima facie* evidence that a partnership exists." *Bass*, 814 S.W.2d at 41 (citations omitted); Tenn. Code Ann. § 61-1-202(3) ("A person who receives a share of the profits of a business is presumed to be a partner in the business..."); *Reed v. Thurman*, 2015 Tenn. App. LEXIS 111, *23 (Tenn. App. Ct., filed March 10, 2015) (finding a partnership because, in part, plaintiff and defendant were "going to split the profits out of the [sale]").

* * *

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In *Reed*, an implied partnership was found to exist Reed and Thurman despite Thurman's protestations that Reed never was a partner, in part because Thurman had previously characterized Reed as a partner in his will. *Id.* at 23. Similarly, in *Wyatt v. Brown*, 39 Tenn. App. 28 (Tenn. App. Ct. 1955), the intent of defendants Brown and Dearing to form a partnership was implied, with the court observing, "Obviously Dearing did intend to enter a partnership, for he stated that he was a partner." *Id.* at 33.

In *Pettes v. Yukon*, 912 S.W.2d 709 (Tenn. App. Ct. 1995), an implied partnership was found to exist where an oral agreement was entered into between Pettes and Yukon. Although Yukon denied the oral agreement of partnership, he did "admit that at some point he discussed with Pettes that the future held the possibility of a partnership or co-ownership." *Id.* at 715. Yukon held Pettes out to the public at large as a partner, and the chancellor in the lower court found that Yukon "strung the plaintiff along" by enticing him with the prospect of the partnership, *Id.* at 715-6.

IN THE CASE-AT-BAR, an implied partnership exists between Mr. Caldwell and Mr. Adkins as a result of their February 2015 oral agreement to then form a partnership. As in *Reed* and *Wyatt*, Mr. Adkins characterized Mr. Caldwell as a "co-founder," a title which has been used interchangeably with "co-owner" by the Tennessee Court of Appeals. *Nelson v. Martin*, 1996 Tenn. App. LEXIS 63, *5, *12 (Tenn. App. Ct., filed Feb. 1, 1996) (referring to plaintiff Nelson first as co-founder and later as co-owner); *Reed* at 23; *Wyatt* at 33. Furthermore, as in *Pettes*, Mr. Adkins discussed partnership with Mr. Caldwell and "strung [Mr. Caldwell] along" by referring to him as a co-founder of the business to employees, customers, and the general public, by encouraging him to fulfill his "sweat equity" obligation under the Partnership Agreement, and referring to him as a co-owner of the business in communications between the two men. *Pettes* at

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715-6; *Exhibits A, C*. Evidence—both implicit and explicit—of Mr. Adkin's clear reference to Mr. Caldwell's ownership is seen in various text messages between Mr. Caldwell and Mr. Adkins:

* * *

Additionally, written in the Tenn. Code Ann. and reiterated in *Bass*, Mr. Caldwell's receipt of a share of the profits of the business is *prima facie* evidence that a partnership exists. *Bass* at 41; Tenn. Code Ann. 61-1-202(3); *Exhibit B*; *see Reed* at 22-23; *Baggett* at 544. Evidence of Mr. Caldwell's receipt of a share of the profits of the business is seen in various text messages between Mr. Caldwell and Mr. Adkins:

* * *

B. SUBSEQUENT INVESTORS IN MOVE ON RELOCATION, INC., ARE NOT BONA FIDE PURCHASERS BECAUSE THEY HAD BOTH ACTUAL AND CONSTRUCTIVE NOTICE OF PLAINTIFF'S OWNERSHIP IN THE COMPANY.

* * *

Furthermore, a bona fide purchaser is required to perform due diligence regarding his or her purchase. Accordingly, a bona fide purchaser is “[c]hargeable with notice, by implication, of every fact affecting the title which would be discovered by an examination...of every fact as to which the purchaser, with reasonable prudence or diligence, ought to become acquainted.” *Hall v. Hall*, 604 S.W.2d 851, 853 (Tenn. 1980) (quoting *Teague v. Sowder*, 121 Tenn. 132, 114 S.W. 484, 489 (Tenn. 1908)); *see Fenn*, 303 S.W.3d at 279. Accordingly, the *Williams* court elucidated the concept of “inquiry notice” as it applies to how a contract or agreement (e.g., a partnership agreement) “will prevail as against a subsequent purchaser with notice.” *Williams v. Title Guaranty & Trust Co.*, 31 Tenn. App. 128, 212 S.W.2d 897, 901:

* * *

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IN THE CASE-AT-BAR, Mr. Adkins had actual notice of the Partnership Agreement, as evidenced by the existence of at least one Partnership Agreement drafted by his attorney, Rachel Schaffer. Mr. McConnell attested in deposition to actual knowledge of “multiple Partnership Agreements.” Mr. McConnell also attested in deposition to consulting with the law firm Bradley (formerly Bradley Arant Boult Cummings) about the validity of the Partnership Agreement. Nonetheless, the fact that the validity of Mr. Caldwell’s and Mr. Adkins’s Partnership Agreement was being questioned is an immaterial issue and sustains Mr. McConnell’s actual notice of the Partnership Agreement. *Fenn*, 303 S.W.3d at 280. Furthermore, Mr. McConnell attested in deposition to discussing these “multiple Partnership Agreement [between Caldwell and Adkins]” with Freedman, Kustelski, Ansley, Metz, and Hodges. Additionally, even if neither Glenn McConnell and the five subsequent investors had no knowledge of the Partnership Agreement, they would all nonetheless be “chargeable with notice of all that an inquiry of [Mr. Adkins] would have disclosed.” *Williams*, 212 S.W.2d at 901.

Regarding constructive notice, any investor of ordinary prudence would inquire as to the legal status of the Company shares which they were purchasing. *Hall*, 604 S.W.2d at 853. Even the most rudimentary inquiry would find that Mr. Caldwell was referred to as “co-founder” of the Company on its website and business cards, on Yelp.com reviews, and in an interview of Mr. Adkins published by the online journal of the Nashville Business Incubation Center. *Exhibits A, C*. Accordingly, all current investors in Move On Relocation, Inc., had constructive knowledge of the Partnership Agreement. As a result of their actual and constructive knowledge of Mr. Caldwell’s ownership in the Company, Mr. Caldwell’s interest in the Company will prevail against any interested asserted by Mr. McConnell or the five subsequent investors. *Williams*, 212 S.W.2d at 901.

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THUS, for the foregoing reasons, Plaintiff has clearly proven that subsequent investors in Move On Relocation, Inc., should be found NOT to be *bona fide* purchasers without notice because they had both actual and constructive notice of Mr. Caldwell's ownership in the Company.

C. AN INJUNCTION IS BOTH NECESSARY AND PROPER TO PREVENT IRREPARABLE HARM TO PLAINTIFF.

* * *

IN THE CASE-AT-BAR, the court should impose an injunction pursuant to Tenn. R. Civ. P. 65.04(2) because the movant's rights have been, are being, and will continue to be violated, the movant will suffer irreparable harm absent the injunction, and the adverse party's actions will render final judgment ineffectual. First, Mr. Caldwell's rights "are being or will be violated by [the] adverse party," Mr. Adkins. *Id.* Mr. Adkins's has breached numerous rights of Mr. Caldwell, including the following: breach of the Partnership Agreement; fraudulent taking of Mr. Caldwell's one-half interest in Move On Relocation, Inc.; sale of Mr. Caldwell's one-half interest in the Company to Glenn McConnell; sale of Mr. Caldwell's one-half interest in the Company to Freedman, Kustelski, Ansley, Metz, and Hodges; depriving Mr. Caldwell of voting rights in the corporation; depriving Mr. Caldwell of his fair salary were he to still be employed by the Company; and retaining control of Mr. Caldwell's one-half interest in the Company, with benefits inuring to Mr. Adkins.

Additionally, Mr. Caldwell "will suffer immediate and irreparable injury, loss or damage pending a final judgment in the action" if the injunction is not issued. *Id.* "The issuance of new stock can devalue or 'dilute' the worth of existing shares." *American Network Group v. Kostyk*, 1994 Tenn. App. LEXIS 619, *14, fn. 2 (Tenn. App. Ct., filed Oct. 26, 1994). Since Mr. Adkins's fraudulent conversion of Mr. Caldwell's one-half interest in the Company, the number

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of outstanding shares has increased once to 100 (one-hundred) and again to 23,000 (twenty-three thousand). Furthermore, selling additional parties shares of stock in a corporation results “in the dilution of [a member’s] percentage of in [the corporation].” *Green v. Champs-Elysees, Inc.*, 2013 Tenn. App. LEXIS 602, *23, 29-30 (Tenn. App. Ct., filed Sept. 11, 2013).

* * *

THUS, for the foregoing reasons, Plaintiff has clearly proven that enjoining Mr. Adkins, Mr. McConnell, the five subsequent investors, and Move On Relocation, Inc., from selling existing outstanding shares and issuing, allocating, and/or allotting additional outstanding shares is a necessary and proper remedy. The movant’s rights have been, are being, and will continue to be violated, the movant will suffer irreparable harm absent the injunction, and the adverse party’s actions will render final judgment ineffectual. Tenn. R. Civ. P. 65.04(2). Accordingly, this court should issue an Order enjoining the sale of existing outstanding shares and an Order enjoining the issuance, allocation, and/or allotment of additional outstanding shares in the Company.

D. RECOGNIZING A CONSTRUCTIVE TRUST IS A PROPER AND EQUITABLE REMEDY.

The Tennessee Supreme Court has recognized constructive trusts as equitable remedies to property held by a person or entity who should not hold it. As stated by the Court in *Sanders v. Forcum-Lannom, Inc.*, 225 Tenn. 637, 475 S.W.2d 172 (1972):

[A] constructive trust arises contrary to intention and *in invitum*, against one who, by fraud, actual or constructive, by duress or abuse of confidence, by commission of wrong, or by any form of unconscionable conduct, artifice, concealment, or questionable means, or who in any way against equity and good conscience, either has obtained or holds the legal right to property which he ought not, in equity and good conscience, hold and enjoy.

475 S.W.2d at 174 (citing *Covert v. Nashville, C. & St. L. Railway* (1948) 186 Tenn. 142, 208 S.W.2d 1008, 1 A.L.R.2d 154; *Central Bus Lines v. Hamilton Nat. Bank* (1951) 34 Tenn.App. 480, 239 S.W.2d 583). Further elucidating the “questionable means” contemplated by the

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Sanders court through one may obtain property which he ought not, the court in *Galyon v. First Tennessee Bank Nat'l Ass'n*, 1991 Tenn. App. LEXIS 946, *4-5, 1991 WL 259473 (Tenn. App. Ct., filed Dec. 11, 1991).

In *Cato v. Mid-America Distrib. Ctrs*, 1996 Tenn. App. LEXIS 551, 1996 WL 502500 (Tenn. App. Ct. 1996), the Tennessee Court of Appeals upheld the trial court's imposition of a constructive trust upon the stock of a corporation in a derivative action alleging fraud and breach of fiduciary duty on the part of the corporation's directors. *Id* at 17. The *Cato* court reasoned that "The imposition of a constructive trust on [defendants'] shares will operate to avoid the unconscionable result of a recovery accruing to...and thereby remaining under the control of and inuring to the benefit of the very parties who occasioned the wrongs to both the corporation and the shareholders." *Id*.

IN THE CASE-AT-BAR, Mr. Adkins fraudulently induced Mr. Caldwell to perform work for Move On Relocation, Inc., with the understanding that Mr. Caldwell was a "co-owner" in the Company. Mr. Adkins then changed the Company's total outstanding shares from 1 (one) to 100 (one hundred) shares on or about December 7, 2018, and sold Mr. Caldwell's 50% (fifty-percent) share of the Company to Glenn McConnell on or about January, 2019. Thereafter, Mr. Adkins and Mr. McConnell changed the Company's total outstanding shares from 100 (one hundred) to 23,000 (twenty-three thousand) on or about July 12, 2019, and each then sold their 25% (twenty-five percent) respective share of Mr. Caldwell's ownership in the Company to five additional investors Freedman, Kustelski, Ansley, Metz, and Hodges. This issuance of additional stock and subsequent sale of the same was performed to fraudulently deprive Mr. Caldwell of his rightful 50% (fifty-percent) share of the Company, and allowing Mr. Adkins, Mr. McConnell,

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and the five additional investors to retain control of their shares which inures to the benefit of the seven very parties who occasioned the wrongs to Mr. Caldwell.

THUS, for the foregoing reasons, Plaintiff has clearly proven that recognizing a constructive trust over the outstanding shares of Move On Relocation, Inc., is a proper and equitable remedy. Mr. Adkins, Mr. McConnell, and the five additional investors should hold their stock as constructive trustees for the benefit of Mr. Caldwell.

III. CONCLUSION

First, a partnership exists in Move On Relocation, Inc., exists between James “Toddy” Caldwell and Bryce Adkins as indicated by their conduct. The parties’ intent to create a partnership is evidenced by the existence of a Partnership Agreement. Mr. Caldwell undertook his obligation to provide “sweat equity,” and Mr. Adkins resultantly and repeatedly referred to Mr. Caldwell as “co-founder” and/or “co-owner” of the Company to its employees, its customers, the public *writ* large, and Mr. Caldwell himself. *Exhibits A, C; Reed*, 2015 Tenn. App. LEXIS at *23; *Wyatt*, 281 S.W.2d at 33; *Pettes*, 912 S.W.2d at 715-6. Additionally, Mr. Caldwell’s receipt of a share of the profits of the business is *prima facie* evidence that a partnership exists. *Bass*, 814 S.W.2d at 41; Tenn. Code Ann. 61-1-202(3); *Exhibit B; see Reed* at *23; *Baggett*, 422 S.W.3d at 544. In short, Mr. Adkins’s and Mr. Caldwell’s behavior evidence a clear intent to form a partnership.

Second, subsequent investors Mitch McConnell, Joe Freedman, Joe Kustelski, David Ansley, Darren Metz, and Mike Hodges in Move On Relocation, Inc., are not bona fide purchasers because they had both actual and constructive notice of plaintiff’s ownership in the company. *Henderson*, 369 S.W.2d at 556. Mr. Adkins discussed with Mr. McConnell about Mr. Caldwell’s partnership, and Mr. Adkins and/or Mr. McConnell discussed with the five

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3) Plaintiff's Motion for Order Recognizing A Construction Trust

subsequent investors about the same, giving all of them actual notice. Furthermore, a reasonably prudent investor would inquire as to the legal ownership of the Company, giving all of them constructive notice. *Hall v. Hall*, 604 S.W.2d at 853. Accordingly, Mr. Caldwell's interest in the Company will prevail against any interest asserted by Mr. McConnell or the five subsequent investors. *Williams*, 212 S.W.2d at 901. The fact that the validity of Mr. Caldwell's and Mr. Adkins's Partnership Agreement was being questioned is an immaterial issue. *Fenn*, 303 S.W.3d at 280.

Third, an Order enjoining the sale of the outstanding shares of Move On stock, as well as an Order enjoining the issuance, allocation, and/or allotment of additional shares of Move On Stock, is a necessary and proper remedy. First, Mr. Caldwell's "rights are or will be violated" by Mr. Caldwell, Mr. McConnell, and the five subsequent investors through their wrongful possession of Mr. Caldwell's one-half ownership in the Company. Tenn. R. Civ. P. 65.04(2). Additionally, Mr. Caldwell "will suffer immediate and irreparable injury, loss or damage" if his interest in the Company continues to be diluted through the issuance, allocation, and/or allotment of additional outstanding shares in the Company. *Id.* Mr. Caldwell "will [also] suffer immediate and irreparable injury, loss or damage" if his interest in the Company continues to be sold to individuals/entities who are not *bona fide* purchasers or individuals/entities who become *bona fide* purchasers through fraud, concealment, misrepresentation, or other artifice by Mr. Adkins, Mr. McConnell, and/or the five subsequent investors. *Id.*

Additionally, "the acts or omissions of [Mr. Adkins] will tend to render such final judgment [in the action] ineffectual." Tenn. R. Civ. P. 65.04(2). The continued issuance, allotment, and/or allocation of additional outstanding shares in the Company would render final judgment ineffectual in returning to Mr. Caldwell the control and benefits derived from his ownership

Caldwell v. Adkins, et al., No. 18-C-633 (Tenn 5th Cir. Davidson Cty., filed 2017)
Plaintiff's Memorandum Of Law In Support of: 1) Plaintiff's Motion To Enjoin Sale Of Move On Stock,;
2) Plaintiff's Motion To Enjoin Issuance, Allocation, and/or Allotment of Additional Move On Relocation Stock; and
3) Plaintiff's Motion for Order Recognizing A Constructive Trust

interest in the Company. Similarly, the continued sale of Mr. Adkins's, Mr. McConnell's, and the five subsequent investors' shares and the sale of the Company's outstanding shares would render any final judgment ineffectual by virtue of dilution by individuals and/or entities who become *bona fide* purchasers through fraud, concealment, or misrepresentation by Mr. Adkins, Mr. McConnell, or the five subsequent investors. No other remedy will adequately prevent harm to Mr. Caldwell and preserve the effectiveness of final judgment. *Vintage Health*, 309 S.W.3d at 467. In short, Mr. Caldwell's rights have been, are being, and will continue to be violated, Mr. Caldwell will suffer irreparable harm absent the injunction, and Mr. Adkins's actions will render final judgment ineffectual. Tenn. R. Civ. P. 65.04(2).

Finally, imposing a constructive trust on the shares of Mr. Adkins and any subsequent investors in the Company is a proper and equitable remedy because these parties, by both actual and constructive fraud, "obtained [and hold] the legal right to property which [they] ought not, in equity and good conscience, hold and enjoy." *Sanders*, 475 S.W.2d at 174. Accordingly, the imposition of a constructive trust will operate to prevent these shares from "remaining under the control of and inuring to the benefit of the very parties who occasioned the wrongs to [Mr. Caldwell]." *Cato*, 1996 Tenn. App. LEXIS at 16.

THUS, for the foregoing reasons, this honorable court should GRANT Plaintiff's Motion to Enjoin the Sale of Move On Relocation, Inc., Stock, Plaintiff's Motion to Enjoin the Issuance, Allocation, and/or Allotment of Additional Move On Relocation, Inc., Stock, and Plaintiff's Motion for Order Recognizing a Constructive Trust.

* * *

Applicant Details

First Name **Jessica**
 Last Name **Lim**
 Citizenship Status **U. S. Citizen**
 Email Address jyl2184@columbia.edu
 Address

Address
Street 225 E 34th St., 5G City New York State/Territory New York Zip 10016 Country United States

Contact Phone Number **7145140510**

Applicant Education

BA/BS From **University of California-Berkeley**
 Date of BA/BS **May 2016**
 JD/LLB From **Columbia University School of Law**
<http://www.law.columbia.edu>
 Date of JD/LLB **April 29, 2021**
 Class Rank **School does not rank**
 Law Review/Journal **Yes**
 Journal(s) **Human Rights Law Review**
Columbia Journal of Race and Law
 Moot Court Experience **Yes**
 Moot Court Name(s) **American Intellectual Property Law**
Association Moot Court

Bar Admission**Prior Judicial Experience**

Judicial Internships/
Externships **No**
Post-graduate Judicial
Law Clerk **No**

Specialized Work Experience

Recommenders

Reid, Arielle
areid@cfal.org
(212) 577-2523 ext. 549
Huang, Bert
bhuang@law.columbia.edu
212-854-8334
Kessler, Jeremy
jkessler@law.columbia.edu

This applicant has certified that all data entered in this profile and any application documents are true and correct.

May 16, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I am a 2021 graduate of Columbia Law School and a law clerk at Shearman & Sterling. I write to apply for a clerkship in your chambers beginning in 2023 or any term thereafter.

Enclosed please find a resume, transcript, and writing sample. My writing sample is the appellate brief I wrote for the Harlan Fiske Stone Moot Court. Also enclosed are letters of recommendation from Professor Bert Huang (bhuang@law.columbia.edu), Professor Jeremy Kessler (jkessler@law.columbia.edu), and Arielle Reid (areid@cfal.org).

Please let me know if I can provide any additional information. I can be reached by phone at 714-514-0510 or by email at jyl2184@columbia.edu. Thank you for your consideration.

Respectfully,

Jessica Lim

JESSICA LIM

225 East 34th St., Apt. 5G
New York, NY 10016
(714) 514-0510 • jyl2184@columbia.edu

EDUCATION

Columbia Law School, New York, NY

Juris Doctor, received April 2021

Honors: Harlan Fiske Stone Scholar

Activities: *Columbia Journal of Race and Law*, Articles editor
Columbia Human Rights Law Review, Staff editor
Research Assistant to Professor Kimberlé Crenshaw, Professor Bert Huang
Asian Pacific American Law Students Association, Caravan chair

University of California, Berkeley, Berkeley, CA

Bachelor of Science in Business Administration, Minor in Public Policy, received May 2016

Honors: Dean's Honors

Activities: Walter A. Haas School of Business External Case Competition Travel Team
The Daily Californian, Sportswriter and web producer
Research Assistant to Professor Amy Lerman

EXPERIENCE

Hon. Katharine H. Parker, U.S. District Court for the Southern District of New York

Law Clerk (forthcoming)

October 2022 – September 2023

Shearman & Sterling LLP, New York, NY

Summer Associate

June 2020 – July 2020

Law Clerk

September 2021 – present

Drafting derivatives agreements and researching securities rules and regulations to ensure compliance. Researched and drafted memoranda on issues related to a class antitrust litigation.

Center for Appellate Litigation, New York, NY

Legal Extern

January 2021 – April 2021

Represented client in an appeal from a felony conviction in the New York Supreme Court, Appellate Division, First Department. Drafted appellate brief for a new trial on Molineux evidence and ineffective assistance of counsel.

The Bronx Defenders, New York, NY

Legal Extern, Criminal Defense and Family Defense

September 2020 – December 2020

Researched and drafted motions to dismiss on speedy trial grounds and facial insufficiency. Assisted with desk appearance tickets, including appearances on the record. Assisted with cross-examination in family court.

The Legal Aid Society, New York, NY

Immigration Legal Unit Extern

January 2020 – May 2020

Advocated for minors in their Asylum and Special Immigrant Juvenile Status (SIJS) applications. Conducted legal research on complicated legal issues including the impact of foster care and criminal matters on SIJS applicants.

Accenture, Los Angeles, CA

Consulting Senior Analyst

August 2016 – May 2018

Led client-facing design meetings to understand business need. Developed marketing productivity software for media and entertainment and healthcare firms. Presented and created change management materials to senior executives.

LANGUAGE SKILLS: Korean (conversational)

INTERESTS: Tennis, running, Broadway shows, podcasts



Registration Services

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 435 West 116th Street, Box A-25
 New York, NY 10027
 T 212 854 2668
 registrar@law.columbia.edu

CLS TRANSCRIPT (Unofficial)

06/23/2021 22:19:41

Program: Juris Doctor

Jessica Y Lim

Spring 2021

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6665-2	Columbia Journal of Race and Law Editorial Board		1.0	CR
L6663-1	Ex. Criminal Appeals	Reid, Arielle I.; Zeno, Mark	2.0	A-
L6663-2	Ex. Criminal Appeals - Fieldwork	Reid, Arielle I.; Zeno, Mark	2.0	CR
L6205-1	Financial Statement Analysis and Interpretation	Bartczak, Norman	3.0	A
L6274-2	Professional Responsibility	Kent, Andrew	2.0	CR
L8084-1	S. Asian American History and the Law	Ishizuka, Nobuhisa	1.0	CR
L9175-1	S. Trial Practice	Dassin, Lev; Horowitz, Jeffrey; Seibel, Cathy	3.0	A-

Total Registered Points: 14.0**Total Earned Points: 14.0**

Fall 2020

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6665-2	Columbia Journal of Race and Law Editorial Board		1.0	CR
L6231-2	Corporations	Pistor, Katharina	4.0	B+
L6792-1	Ex. Bronx Defenders on Holistic Defense	Chokhani, Natasha; Cumberbatch, Shannon; James, Karume	2.0	CR
L6792-2	Ex. Bronx Defenders on Holistic Defense - Fieldwork	Chokhani, Natasha; Cumberbatch, Shannon; James, Karume	2.0	CR
L6425-1	Federal Courts	Metzger, Gillian	4.0	B+
L6680-1	Moot Court Stone Honor Competition	Richman, Daniel; Strauss, Ilene	0.0	CR
L8609-1	The Regulation of Sport: Competitive Balance, Corruption & Adjudicating Disputes in Global and US Sports [Minor Writing Credit - Earned]	Mavroidis, Petros C.; Rodgers, Jennifer	2.0	A-

Total Registered Points: 15.0**Total Earned Points: 15.0**

Spring 2020

Due to the COVID-19 pandemic, mandatory Credit/Fail grading was in effect for all students for the spring 2020 semester.

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6238-1	Criminal Adjudication	Shechtman, Paul	3.0	CR
L6793-1	Ex. Immigrant Youth Advocacy	Pont, Amy; Romero, Cristina	2.0	CR
L6793-2	Ex. Immigrant Youth Advocacy - Fieldwork	Pont, Amy; Romero, Cristina	3.0	CR
L6655-1	Human Rights Law Review		0.0	CR
L9090-1	S. Law and Theatre	Chaikelson, Steven	2.0	CR
L6701-1	The Media Industries: Public Policy and Business Strategy	Knee, Jonathan; Wu, Timothy	3.0	CR

Total Registered Points: 13.0

Total Earned Points: 13.0

Fall 2019

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6341-1	Copyright Law	Wu, Timothy	3.0	A
L6241-1	Evidence	Shechtman, Paul	3.0	A-
L6655-1	Human Rights Law Review		0.0	CR
L6169-2	Legislation and Regulation	Kessler, Jeremy	4.0	A-
L6675-1	Major Writing Credit	Wu, Timothy	0.0	CR
L6685-1	Serv-Unpaid Faculty Research Assistant	Crenshaw, Kimberle W.	1.0	CR
L6683-1	Supervised Research Paper	Wu, Timothy	2.0	CR

Total Registered Points: 13.0

Total Earned Points: 13.0

Spring 2019

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6863-1	AIPLA Moot Court	DeMasi, Timothy; Lebowitz, Henry; Strauss, Ilene	0.0	CR
L6133-3	Constitutional Law	Ponsa-Kraus, Christina D.	4.0	B+
L6108-4	Criminal Law	Harcourt, Bernard E.	3.0	B
L6369-1	Lawyering for Change	Sturm, Susan P.	3.0	B+
L6121-2	Legal Practice Workshop II	DeMasi, Timothy; Lebowitz, Henry	1.0	P
L6116-2	Property	Briffault, Richard	4.0	B+

Total Registered Points: 15.0

Total Earned Points: 15.0

January 2019

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6130-2	Legal Methods II: Methods of Statutory Drafting and Interpretation	Ginsburg, Jane C.; Louk, David S	1.0	CR

Total Registered Points: 1.0

Total Earned Points: 1.0

Fall 2018

Course ID	Course Name	Instructor(s)	Points	Final Grade
L6101-5	Civil Procedure	Lynch, Gerard E.	4.0	B
L6105-1	Contracts	Kraus, Jody	4.0	B+
L6113-4	Legal Methods	Briffault, Richard	1.0	CR
L6115-6	Legal Practice Workshop I	Lebovits, Gerald; Newman, Mariana	2.0	HP
L6118-3	Torts	Tani, Karen	4.0	B+

Total Registered Points: 15.0

Total Earned Points: 15.0

Total Registered JD Program Points: 86.0

Total Earned JD Program Points: 86.0

Honors and Prizes

Academic Year	Honor / Prize	Award Class
2020-21	Harlan Fiske Stone	3L
2019-20	Harlan Fiske Stone	2L

Pro Bono Work

Type	Hours
Mandatory	40.0
Voluntary	5.0

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 128 SPROUL HALL #5404
 BERKELEY, CA 94720-5404

TELEPHONE: 510-643-7720

Academic Transcript of:
 JESSICA LIM
 Date of Birth: 29-Jan-xxxx
 Transcript Created: 18-Jul-2016

Requested by:
 JESSICA LIM
 9888 NOVARA LN.
 CYPRESS, CA 90630-6823

E-Mail: jessicalimis@gmail.com



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 RESIDENT CYPRESS,CA 01-29-94 ***-**-6283 FC 07-18-16
 AUG 2012 REGULAR

- SECONDARY SCHOOL - DATE GRADUATED -
 OXFORD ACADEMY JUNE 2012

-UNIVERSITY REQUIREMENTS-
 08-12 UC ENTRY LVL WRITING-REQT SATISFIED
 08-12 AMERICAN HISTORY -REQT SATISFIED
 08-12 AMERICAN INSTITUTION-REQT SATISFIED

- BERKELEY CAMPUS REQUIREMENTS -
 05-14 AMERICAN CULTURES -REQT SATISFIED

- DEGREES -

540 BACHELOR OF SCIENCE MAY 13, 2016

811 ADV PLACEMENT EXAM- EUR HIST, 05-10 5.3
 812 ADV PLACEMENT EXAM- AM HIST, 05-11 5.3
 813 ADV PLACEMENT EXAM- ENGL LANG, 05-11 0.0
 814 ADV PLACEMENT EXAM- MATH AB, 05-11 0.0
 815 ADV PLACEMENT EXAM- ENGL C/L, 05-12 5.3
 816 ADV PLACEMENT EXAM- AM GOV POL, 05-12 2.7
 817 ADV PLACEMENT EXAM- MATH BC, 05-12 5.3
 818 ADV PLACEMENT EXAM- MATH AB SUB, 05-12 0.0
 819 ADV PLACEMENT EXAM- STAT, 05-12 2.7
 TOTAL: 26.6*

FALL SEMESTER 2012
 820 SURVY WORLD HISTORY IAS 45 4.0 A- 14.8
 821 DESCRIPTIVE INTRO L & S C70V 3.0 A 12.0
 822 ANAL GEO & CALCULUS MATH 16B 3.0 A+ 12.0
 823 INTRO PROB STAT CAL STAT 20 4.0 A 16.0
 14.0* 54.8*
 14.0*ATTM 14.0*PSSD 54.8*GP 26.8BAL

824 HONORS TO 12-12

824A Dean's Honors

SPRING SEMESTER 2013
 825 ELEM KOREAN HERITAG KOREAN 1BX 5.0 A 20.0
 826 INTRO TO ECONOMICS ECON 1 4.0 A- 14.8
 827 PHILOS & VALUES L & S 160B 3.0 A 12.0
 828 TEACHING MATH UGIS 81B 2.0 P PF
 829 RESEARCH SOC SCI UGIS 192B 2.0 P PF
 12.0* 46.8*
 26.0*ATTM 26.0*PSSD 101.6*GP 49.6BAL

830 HONORS TO 05-13

FALL SEMESTER 2013
 831 PRINCIPLES OF BUS UGBA 10 3.0 A- 11.1
 832 INT KOREAN HERITAG KOREAN 10AX 5.0 P P/NP
 833 INTRO HUMAN NUTR NUSCTX 10 3.0 P P/NP
 834 HINDU MYTHOLOGY RELIGST C165 4.0 B 12.0
 7.0* 23.1*
 33.0*ATTM 33.0*PSSD 124.7*GP 58.7BAL

835 HONORS TO 12-13

SPRING SEMESTER 2014
 836 GENERAL ASTRONOMY ASTRON C10 4.0 P P/NP
 837 MACRO ANALYSIS ECON 100B 4.0 A- 14.8
 838 AMERICAN CULTURE MUSIC 26AC 4.0 A+ 16.0
 839 SOC OF ENTREPRENEUR SOCIOL 121 4.0 P P/NP
 8.0* 30.8*
 41.0*ATTM 41.0*PSSD 155.5*GP 73.5BAL

840 HONORS TO 05-14

FALL SEMESTER 2014
 841 INTRO FIN ACCOUNT UGBA 102A 3.0 B+ 9.9
 842 INTRO TO FINANCE UGBA 103 4.0 A- 14.8
 843 LEADING PEOPLE UGBA 105 3.0 B+ 9.9
 844 DIRECTED GROUP STDY GERMAN 98 1.0 P PF
 845 ENERGY, SOCIETY PUB POL C184 4.0 P P/NP
 10.0* 34.6*
 51.0*ATTM 51.0*PSSD 190.1*GP 88.1BAL

Walter Wong
 Walter Wong, University Registrar



23492598 60001-029 U LIM,JESSICA YOUNG JI *BUS ADM * *2
 RESIDENT CYPRESS,CA 01-29-94 ***-**-6283 FC 07-18-16
 AUG 2012 REGULAR

SPRING SEMESTER 2015
 846 BUSINESS COMM UGBA 100 2.0 A- 7.4
 847 INTRO MANAGER ACCT UGBA 102B 3.0 A- 11.1
 848 SOC & POL ETH ENV UGBA 107 3.0 B+ 9.9
 849 LEAD NP AND SOC ENT UGBA 192A 3.0 B+ 9.9
 850 DIRECTED GROUP STDY UGBA 198 1.0 P PF
 851 DIRECTED GROUP STDY UGBA 198 2.0 P PF
 852 WEALTH AND POVERTY PUB POL C103 4.0 A- 14.8
 15.0* 53.1*
 66.0*ATTM 66.0*PSSD 243.2*GP 111.2BAL

FALL SEMESTER 2015
 853 MICROECONOMIC ANALY UGBA 101A 3.0 A 12.0
 854 MARKETING UGBA 106 3.0 A 12.0
 855 NEGOTIATION UGBA 152 3.0 B+ 9.9
 856 INTRO PUB POL ANAL PUB POL 101 4.0 B 12.0
 857 SPEC TOPICS PUB POL PUB POL 190 4.0 A- 14.8
 17.0* 60.7*
 83.0*ATTM 83.0*PSSD 303.9*GP 137.9BAL

SPRING SEMESTER 2016
 858 SPRDSHEETMODELING UGBA 104 3.0 A 12.0
 859 SUPERV INDEP STUDY UGBA 199 2.0 P PF
 860 FREEDOM SPECH PRESS MEDIAST 104A 3.0 A- 11.1
 861 SPEC TOPICS PUB POL PUB POL 190 4.0 A+ 16.0
 862 DEVELOP & GLOBA SOCIOL 127 4.0 A 16.0
 14.0* 55.1*
 97.0*ATTM 97.0*PSSD 359.0*GP 165.0BAL

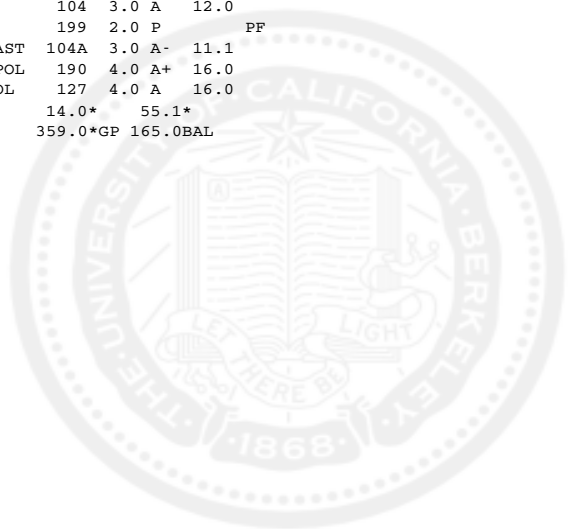
863 Dean's Honors

- MEMORANDA -
 950 08-28-14 FIELD OF STUDY CHANGED FROM
 951 L & S UNDECLARED.

TOTAL PASS/NOT PASS ATTM 30.0 PASSED 30.0

OTHER TRANSFER CREDIT 26.6

SEMESTER CREDITS COMPLETED 153.6 UC GPA 3.701



Walter Wong
 Walter Wong, University Registrar



TRANSCRIPT INFORMATION

Office of the Registrar
University of California
Berkeley, California 94720-5404

History

The University of California was created by an Act of the State Legislature in 1868, and classes have been given at Berkeley since 1873.

Units of Credit

Until September 1966, credits were recorded as semester units (hours). From September 1966 through summer 1983 credits were recorded as quarter units (hours). Beginning with the fall term, 1983, credits are recorded as semester units (hours). Quarter system requires 180 units for bachelor's degree. Semester system, 120.

Advanced Standing

Transfer Credit

Only credit that is accepted by the University is indicated on the transcripts of Berkeley students. Individual courses are not shown.

CLEP-Advanced Placement Credit

Examinations and credits accepted are indicated on the transcript in the same manner as transfer credit.

Course Numbering System

1 - 99	-	Lower division courses
100 - 199	-	Upper division courses
200 - 299	-	Graduate courses
300 - 499	-	Professional courses for teachers or prospective teachers
600 - 602	-	Special Study

Grades of Scholarship

Grades

The work of all students on the Berkeley campus is reported in terms of the following grades:

A	-	Excellent
B	-	Good
C	-	Fair
D	-	Barely Passed
F	-	Failure
P	-	Passed at a minimum level of C-
NP	-	Not Passed
S	-	Satisfactory or passed at a minimum level of B-
U	-	Unsatisfactory
I	-	Work incomplete, due to circumstances beyond the students control, but of passing quality
IP	-	Work in progress; final grade to be assigned upon completion of entire course sequence
NR	-	Temporary administrative grade; not included in grade point computation

The grades A, B, C, and D may be modified by plus (+) or minus (-) suffixes.

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Grade Points

Grade points per unit are assigned as follows: A=4, B=3, C=2, D=1, and F=none. When attached to the grades A, B, C, and D, plus (+) grades carry three-tenths of a grade point more per unit, and minus (-) grades carry three-tenths of a grade point less per unit than unsuffixed grades, except for A+, which carries 4.0 grade points per unit as does an A.

Courses graded P, NP, S, U, I, IP, or NR are not used in computing the grade point average.

Scholastic Standing

Good Standing

Undergraduate: C average (non-negative balance)
Graduate: B average or better on all work attempted at any UC campus after a bachelor's degree.

Academic Probation

Undergraduate students are placed on academic probation if at the end of any term their cumulative grade point average is less than 2.0 (C average) computed on the total of all courses undertaken in the University. However, in the Colleges of Chemistry and Engineering, probation is determined on a term basis.

Credit Codes

Credit codes may determine the calculation of credit or annotate a course entry as follows:

Current Records System

Fall 1975 to Present

Note: An "I" assigned as of Fall 1973 to present is not included in grade point computation.

Pass/Fail Courses

PF-Course offered only on Pass/Not Pass basis
P/NP-Undergraduate grading option Passed/Not Passed
SF-Graduate grading option Satisfactory/Unsatisfactory
SU-Graduate courses offered only on Satisfactory/Unsatisfactory basis

PF, P/NP, SF, SU courses are not included in units ATTM (attempted) or units PSSD (passed), but are included in CREDITS COMPLETED.

Sequence Courses

T1, T2, T3-Sequence course in progress
TX-Sequence course with variable terms, in progress
TP-Sequence course in progress, taken P/NP
TS-Sequence course in progress, taken SF
2T, 3T, TT, PT, ST-Final term of sequence course with total units and final grade

Resolution of Incomplete Grades

J1	-	I replaced with letter grade
PJ	-	I replaced with a P or NP for an undergraduate
SJ	-	I replaced S or U for a graduate
JT	-	I replaced with a grade for final term of sequence course
J5	-	I to be retained permanently by an undergraduate
Q1	-	I lapsed to F
PI	-	I lapsed to NP
Q2	-	IP grade lapsed to I
RZ	-	Replacement of original grade; no credit calculation

Repeated Courses

The G-Series code appearing after a repeated course entry controls credit and grade points earned.

RD	-	Original D grade; units attempted, units passed and grade points counted
RF	-	Original F grade; units attempted counted
RR	-	Original NP, I or NR; no credit calculation
G1	-	D grade repeated; additional grade points calculated
G+	-	D+ grade repeated; additional grade points calculated
G-	-	D- grade repeated; additional grade points calculated
G2	-	F grade repeated; units passed and grade points calculated
PG	-	NP grade repeated; passed/not passed units calculated
GØ	-	NP grade repeated for a letter grade; units attempted, units passed, grade points calculated; incomplete grade repeated with permission
GP	-	P grade repeated; no credit allowed
G5	-	C- or better grade repeated; no credit allowed
GT	-	I (lapsed IP) grade repeated; units attempted, units passed, grade points calculated
GB	-	2 nd repeat of an F without permission; only units passed calculated
GI	-	I repeated without permission; units attempted, units passed, but no grade points calculated
GE	-	Units attempted and grade points calculated; units passed not calculated

Miscellaneous

N1	-	Grade corrected by instructor
K1	-	Credit by examination; see memoranda
DR	-	Course dropped after eighth week of term

Prefixes

C	-	Cross-listed
H	-	Honors
N	-	Summer course
R	-	Reading & Composition
W	-	On-line

Previous Record System

Prior to Fall 1975

Note: An "I" assigned prior to Fall 1973 is included in grade point computation as an F grade.

Prior to Fall 1966, explanations are included on the transcripts:

E	-	Education Abroad Program
G	-	Course repeated
GM	-	Duplicate Matriculation Credit
K	-	I grade completion deferred without loss of grade points
L	-	I completed (replaced with grade)
M	-	Allowed to take credit by examination
N	-	Grade points for I grade allowed upon completion
Q	-	Grade changed by instructor
V	-	Course in progress (sequence course)
J	-	I grade lapsed to F
R	-	Course completed in Extension Division
T	-	Course dropped
GL	-	Grade by special examination

CENTER FOR APPELLATE LITIGATION

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ARIELLE REID
areid@cfal.org
extension 549

October 1, 2021

Dear Judges,

Please accept this letter in support of Jessica Lim's application for a clerkship. I supervised Jessica during her Spring 2021 semester externship with the Center for Appellate Litigation, an appellate public defender's office. Her contributions in the classroom as well as in the field allow me to wholeheartedly recommend her for a clerkship.

Because we are an appellate office, legal research and writing are the bread and butter of our work. Jessica's skills in those areas were among the best I've encountered in years of working with law students. She and her partner drafted an appellate brief on behalf of a client from start to finish, including selecting the issues to raise and conducting the legal research necessary to craft the argument. Jessica was assigned to write the statement of facts as well as a complex legal point that required melding substantive evidentiary rules with constitutional right to counsel law. Jessica dived wholeheartedly into the legal research, exhausting the wells of precedent and analyzing ways in which that precedent could be utilized in furtherance of our client's claim. As a result, she was able to craft a creative and innovative argument for relief.

When it came time to write the brief, Jessica's prose was clear, concise, and error-free. She identified and incorporated all relevant facts, and demonstrated a solid command of how to wield them most effectively. Notably, Jessica resisted the common temptation among student advocates to exaggerate and editorialize the facts. Although the brief was an advocacy piece, I believe Jessica's measured tone and straightforward narrative voice would lend itself well to judicial writing.

In addition to the brief-writing component of the externship, students were required to attend a weekly seminar. Because of the COVID-19 pandemic, the seminar met remotely in the evenings. Still, Jessica approached every class with an eagerness to learn. She demonstrated an aptitude for picking up knowledge and new

skills quickly, and almost immediately incorporated them into her work. Her self-motivation was striking given the demands and challenges of virtual learning.

As an additional part of the externship's seminar component, students were tasked with workshopping one another's briefs. The feedback Jessica offered to her classmates on their work was insightful and spot on, even on legal issues that she had not herself encountered. She was able to identify ways in which arguments could be more persuasively framed and organized, a skill that even practicing lawyers struggle to hone.

Finally, it is worth noting that Jessica was a pleasure to work with and to supervise. She was neither afraid to ask questions nor to assert her opinions, and she welcomed constructive feedback on how she could grow and improve her skills. She has an outsized work ethic, which was evident in the way she approached the semester with our office. For all of these reasons, I am confident that she would be an amazing addition to chambers. I recommend her without hesitation.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Arielle Reid', with a large, sweeping loop at the end.

Arielle Reid
Supervising Attorney

May 16, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I am writing with enthusiasm to recommend Jessica Lim for a clerkship in your chambers. Jessica is a recent graduate of Columbia Law School, where she earned our honors designation of Stone scholar, served on two journals, and participated in externships with the Center on Appellate Litigation and with the Bronx Defenders. She now works at Shearman & Sterling.

It has been a delight to work with Jessica. She volunteered to be a research assistant for me, during the summer after she graduated. We had not worked together otherwise, and she had not been a student of mine, but I was impressed by her initiative. As a research assistant for me this past summer, she immersed herself in learning about the certiorari process at the Supreme Court. We began our work with a set of in-depth conversations about a new academic article on the Court's practice of choosing specific questions to address (and the practice of parties identifying "questions presented" for the Court to consider granting). In our discussions, Jessica offered sharp insights which advanced my thinking about these topics. For example, we discussed how hypothetical proposals for requiring the Court to review each granted case more comprehensively (going beyond the specific "questions presented") might be largely futile given the necessary work for any court of narrowing issues, and given the available procedural tools for serving this purpose, such as the appellate devices of waiver and forfeiture.

Throughout our discussions, Jessica showed a very fine intuition for the range of possible interactions among higher and lower courts, for the realities of the appeals process, and for competing conceptions of the Court's role. Jessica also showed resourcefulness and excellent judgment in the research aspects of our work together. She curated the literature for me, with a keen eye for what might be most helpful and interesting—not just what was most obviously related to our topics, but also articles that may have seemed out-of-scope but were in fact related in a more conceptual way that she would take care to explain. For example, she thoughtfully engaged a literature that considers the role of the Court in "reaching out" to create new questions beyond those originally emphasized in the parties' petition (as well as the role of amici in drawing the Court's attention to those extra issues). Jessica then followed this up by compiling and creating a spreadsheet of recent cases in which the Court had requested and received supplemental briefing, sorting out those which were preliminary or jurisdictional inquiries versus those which were enlargements of the scope of the core substantive issues in the case.

Even in our short time working together, I have found Jessica to be highly impressive—insightful at multiple levels, intellectually engaged, and thoroughly professional. I hope you will find a chance to interview her. If I can answer any other questions, my phone is (857) 928-4324, and my e-mail is bhuang@law.columbia.edu. Thank you very much.

Sincerely,

Bert I. Huang
Michael I. Sovern Professor of Law
Columbia Law School

Bert Huang - bhuang@law.columbia.edu - 212-854-8334

May 16, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

It is a pleasure to recommend Jessica Lim for a clerkship in your chambers. I first met Jessica when she took my Legislation & Regulation course in the Fall of 2019, and her impressive performance then has stayed with me. In a lecture hall of 75 students, Jessica stood out at as one of the best-prepared and most thoughtful participants. She brought to class, to office hours, and to her written work an intellectual energy and felicity of expression from which her peers and her teacher greatly benefitted. Furthermore, it was obvious to those around her that Jessica's illuminating engagement was driven not by a desire to score points, but rather to get to the heart of what it means to serve the public interest – whether as an administrator, an advocate, or a judge. As a result, Jessica's fellow students listened to her well-chosen interventions with real curiosity and respect; she lent both clarity and gravity to our discussions.

In light of Jessica's facility in the lecture hall, I was not surprised to find that she had written one of the finer exams in the class. This exam was an eight-hour take-home, featuring a long issue spotter and an essay question concerning the costs and benefits of the judicial use of purposive statutory interpretation. Making commendable use of the extended time frame, Jessica produced an exam that read like two strong bench memos. She cut through extraneous detail, flagged red herrings, and zeroed in on the decisive questions of law and fact. Jessica's writing demonstrated easy control of the relevant precedents and, where precedent ran out, a veteran's grasp of the normative tensions and policy choices underlying administrative law doctrine.

In addition to getting to know Jessica in the classroom, I was lucky enough to benefit from Jessica's service as a research assistant in the 2020-2021 academic year. She performed exceptionally well: easily digesting the somewhat unorthodox doctrinal and policy arguments made by me and my co-author, Chuck Sabel, in a draft essay on the judicial review of agency guidance documents; making timely and useful substantive recommendations; and catching a number of logical and technical missteps.

I have no doubt that Jessica would be a winning addition to your chambers, and recommend her enthusiastically. Please do not hesitate to contact me if I can be of assistance.

Best wishes,

Jeremy Kessler

Jeremy Kessler - jkessler@law.columbia.edu

WRITING SAMPLE

This is the appellate brief I wrote in Fall 2020 for the Harlan Fiske Stone Moot Court. I wrote and edited this brief without outside assistance, and I have removed all sections written by my partner.

The case involved the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, which created the Paycheck Protection Program (“PPP”). The CARES Act authorized banks to process PPP loans on behalf of the government. Relator-Appellant Tanya Moore, a Commercial Loan Officer for Confluence Bank, alleged that Confluence Bank was certifying false loan applications to the government. Ms. Moore filed a False Claims Act (“FCA”) *qui tam* action against Confluence Bank, and the United States government moved to intervene and dismiss. The case was initially brought in the Northern District of Texas.

I represented the Relator-Appellant Tanya Moore. The Northern District of Texas granted the government’s motion to dismiss, and my client appealed to the Fifth Circuit.

The question presented here was whether the relator-appellant met the pleading requirements for scienter and materiality under the FCA.

I. THE DISTRICT COURT ERRED IN CONCLUDING THAT RELATOR DID NOT MEET THE PLEADING STANDARDS FOR SCIENTER

The Relator sufficiently alleged that the Defendants’ fraudulent conduct was carried out with the requisite scienter. The False Claims Act (“FCA”) allows relators to sue an individual who “knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval” or “knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.” 31 U.S.C. § 3729(a)(1). In addition to the statutory requirements, this Court adopted a test that requires showing (1) “there was a false statement or fraudulent course of conduct; (2) made or carried out with the requisite scienter; (3) that was material; and (4) that caused the government to pay out money or forfeit moneys due (i.e., that involved a claim).” *United States ex rel. Longhi v. United States*, 575 F.3d 458, 467 (5th Cir. 2009) (citing *United States ex rel. Wilson v. Kellogg Brown & Root, Inc.*, 525 F.3d 370, 376 (4th Cir. 2008)). The FCA defines knowledge as when a person: “(1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information.” 31 U.S.C. § 3729(b). Scienter, along with the materiality requirement, are required to provide fair notice and combat the possibility of open-ended liability under the FCA. *Universal Health Services, Inc. v. United States ex rel. Escobar*, 136 S. Ct. 1989, 2002 (2016).

A. The district court erred in applying a higher standard of review than required for scienter on a motion to dismiss

The district court applied a more stringent standard of review than required for Ms. Moore’s allegations on state of mind issues. The court demanded more facts than this Court has previously found necessary to survive a motion to dismiss for scienter. Despite the court’s acknowledgement that at least “some employees acted with unclear intents and potentially base

motives” (R. at 97), the court found for the defendant instead of looking at the allegations in the light most favorable to the nonmoving party.

To survive a motion to dismiss on scienter, the Relator must only allege knowledge *plausibly* under Fed. Rules Civ. Proc. Rule 8 and need not allege state of mind with particularity under the exception in Rule 9(b). The district court improperly required that Relator allege concrete facts instead of requiring only that the Relator plead enough factual content for the court to draw a reasonable inference. R. at 91; *see United States v. Bollinger Shipyards, Inc.*, 775 F.3d 255, 260 (5th Cir. 2014) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations omitted)) (finding plausibility requires only pleading “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”) The plausibility standard requires more than a sheer possibility but does not require probability that the defendant acted unlawfully. *Id.* This Court has stated that a court evaluating an allegation of scienter must recognize that it is difficult to allege another party’s state of mind. *See Int’l Shortstop, Inc. v. Rally’s, Inc.*, 939 F.2d 1257, 1266 (5th Cir. 1991). Therefore, state of mind issues are generally not suited for resolution at early stages like a motion to dismiss or motions for summary judgment. *Thomas v. Napolitano*, 449 Fed. Appx. 373, 376, 2011 WL 5420821 (5th Cir. Nov. 9, 2011) (finding that resolution before fact finding or at summary judgment is generally disfavored for state-of-mind questions).

Further, state of mind issues are primarily questions of fact. *See Int’l Shortstop, Inc.*, 939 F.2d at 1265 (5th Cir. 1991) (describing a “party’s state of mind [as] inherently a question of fact which turns on credibility.”); *Thomas*, 449 Fed. Appx. 373 at 376 (5th Cir. Nov. 9, 2011) (“State of mind... is [a] factual issue, difficult to resolve without testimony, and this case demonstrates why summary judgment is disfavored for state-of-mind questions”). This Court has stated that all

facts and inferences should be viewed in the light most flattering to the nonmoving party. *See Sonnier v. State Farm Mut. Auto. Ins. Co.*, 509 F.3d 673, 675 (5th Cir. 2007) (the court must “accept all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff”).

In its motion to dismiss, the Government stated that the Relator “lacks the necessary insider knowledge of Confluence’s workings to sufficiently claim that Confluence Bank or its customers willfully violated the FCA” (R. at 76), and the district court improperly agreed with the Government’s statement and erred in dismissing Ms. Moore’s allegations. The lower court ignored Ms. Moore’s plausible allegations and the many facts she pled that would allow the court to draw a reasonable inference that Confluence Bank had the requisite scienter and failed to view the facts and inferences in the light most flattering to the nonmoving party. In fact, the district court explicitly refused to make reasonable inferences based on factual content despite finding that some employees acted with unclear intents and “potentially base motives.” R. at 97. Also, the district court improperly faulted Relator for being unable to “provide further proof of a deliberate intent by the Bank or its employees to defraud the United States.” This Court expressly found that the FCA does not require specific intent to defraud the United States Government. *United States ex rel. Longhi v. United States*, 575 F.3d 458, 468 (5th Cir. 2009). Therefore, the district court confused the knowledge requirement with a specific intent to defraud the Government. *See id.*; 31 U.S.C. 3729(b)(1)(B)¹.

Given the appropriate pleading standard on a motion to dismiss, the Relator adequately pleaded Defendants’ scienter by alleging facts that lead to a reasonable inference that the Defendants knowingly presented false claims for payment under 31 U.S.C. § 3729(a).

¹ A structural interpretation of this statute would demonstrate that by including 31 U.S.C. 3729(b)(1)(B) within the definition of the terms “knowing” and “knowingly”, Congress intended to contrast the definition for knowledge with specific intent to defraud.

- B. Relator adequately pled a pattern of poor loan underwriting and lack of performance checks that lead to an inference that Defendant knowingly submitted false claims for payment and made or used false records, or caused false records to be used

The CARES Act and the Interim Final Rule established the Defendants' responsibility to certify all of the information in a Borrower's PPP application before submitting an approval to the SBA. 85 Fed. Reg. 33010, 33013. As the trial court appropriately found, any misrepresentations by Defendants to the SBA regarding the Borrower's eligibility would be a false claim under Section 3729(a). R-96. Ms. Moore pled numerous examples of false claims and provided evidence of the Defendants' knowledge of the false information contained in these applications that were not cured but nonetheless submitted to the Government as approved PPP loans.

1. Defendant misrepresented 3D6's and Blecher's Board Games' eligibility for the PPP loan

The Defendant submitted applications for borrowers 3D6 and Blecher's Board Games despite their ineligibility for a PPP loan. Ms. Moore pled adequate facts to support an inference that the Defendant did so knowingly, or at the very least, with deliberate ignorance or reckless disregard for the truth.

Ms. Moore alleged that on April 17, 2019, she informed her manager, Lake, that Blecher's Board Games did not disclose that it was owned by 3D6 in its PPP application, that Confluence had previously approved 3D6's PPP application, and that Blecher's Board Games likely had access to other capital from its parent company because of 3D6's previous application. R. at 32. Ms. Moore also informed Lake that Blecher's should be considered part of 3D6 according to 13 C.F.R. § 121.103. *Id.* Despite this, in a meeting between Ms. Moore and Lake the next day, Lake ignored Ms. Moore's concerns and instead told her that if she "focused less on what other people were doing, [she] might get more work done. *Id.*; see also *United States ex rel. Integra Med Analytics*,

LLC v. Creative Solutions in Healthcare, Inc., 2019 WL 5970283, *6 (Nov. 13, 2019) (finding allegations that managers would get “pissed off” and would pressure therapists to provide services that could be reimbursed without regard for whether it was needed or not probative of scienter). Similar to *Integra Med Analytics*, when the Relator drew attention to this false claim, her manager would make comments that pressured Relator to return to work, with little regard for whether the claim was in fact false. The fact that Relator communicated this to her manager points to actual knowledge or, at the very least, a reckless disregard for the truth. Also, the Defendant acted in reckless disregard of the truth or falsity of the information by not following the Interim Final Rules that clearly establish “the lender must confirm ... the information provided by the lender to SBA accurately reflects lender’s records for the loan[.]” 13 C.F.R. pt. 120. The Defendant’s records included 3D6’s previously approved application, so the Defendant acted in reckless disregard of the requirement that no other funding be available.

Further, in the same April 17, 2019 conversation, Ms. Moore told her manager that Blecher’s parent company 3D6 had been approved for a \$10 million loan in late February despite not meeting requirements in the CARES Act. *Id.* Ms. Moore included 3D6’s Borrower Application Form to support her allegations that the loan was improperly approved because 3D6 reported employees that are double the statutory limit and revenues that far exceed the maximum allowed under the NAICS standards. R. at 53, 55. The Government’s motion to dismiss does not dispute that 3D6 may have impermissibly received a loan but instead says that going after 3D6 would be expensive and not advisable. R. at 80. As above, Relator drew her manager’s attention to the misrepresentation that Confluence made of 3D6’s eligibility and little was done in response. R. at 32.

2. Defendant knowingly submitted a false claim for Mursea Hotels

Relator sufficiently alleged that Defendant knowingly submitted a false claim for Mursea Hotels. Prior to March 4, 2019, Relator rejected the Mursea Hotels' PPP loan application because Mursea Hotels had exceeded the revenue cap for a small business under the NAICS size requirement and because she read that Mursea Hotels was expanding to include hotels in other areas. R. at 33-34. Under 13 C.F.R. § 121.101, a hotel is a small business if it makes less than \$35 million a year. Under Section 1102(a)(36)(F), the PPP loan was approved primarily for payment of payroll obligations and employee benefits with some other categories including payments of interest on any mortgage obligation, rent, and "interest on any other debt obligations that were incurred *before* the covered period." While its debt obligation for expanding into a second city seems to have been incurred prior to the PPP loan's covered period, the expansion into the third city is likely an impermissible use of its funds. R. at 66. On top of this, the loan approved for Mursea Hotel was for \$18 million, which is well above the statutory maximum of \$10 million.

Despite Ms. Moore's rejection of the application, on March 4, 2019, Confluence approved the loan. R. at 33. When Ms. Moore flagged this to her loan manager, Lake again dismissed her concerns and explained it away as a possible system glitch. This nonchalant dismissal of Ms. Moore's concern adequately supports a reasonable inference that the lender acted with reckless disregard with respect to compliance with the PPP statute. *Id.*; see also *United States v. Brookdale Senior Living Communities, Inc.*, 892 F.3d 822, 837 (6th Cir. 2018), *cert. denied sub nom. Brookdale Senior Living Communities, Inc. v. U.S. ex rel. Prather*, 139 S. Ct. 1323 (2019) (finding allegations that Relator's concerns were repeatedly dismissed supported a reasonable inference that Medicare provider acted with reckless disregard). Three months after Ms. Moore flagged the Mursea Hotels application to Lake, Confluence's VP/Commercial Loan Officer played

a phone call from Wanda Rees, co-owner and President of Mursea Hotels, expressing surprise and gratitude to Confluence for its approved PPP loan over the loudspeaker as an encouragement to employees to “keep it up.” R. at 34. While the Government rejects that this is demonstrative of Confluence’s knowing or reckless violation of the FCA because of its tone of surprise (R. at 81), this ignores the many ways that Ms. Moore flagged the application to Confluence prior to this call, including rejecting the loan and flagging the loan when the rejection was overridden because of a “system glitch.” Additionally, Mursea Hotels’ surprise of being approved is irrelevant to the inquiry of whether Confluence acted in reckless disregard of the truth or falsity of the application since Confluence was responsible for certifying that the borrower was eligible for the PPP loan.

3. By approving loans with missing signature pages and pre-filling out questions, Defendants misrepresented small business concerns’ eligibility for the PPP Loan

Ms. Moore alleged specific instances where the Loan Officers and Loan Manager, Lake, presented false claims for payment to the government with deliberate ignorance for the truth or falsity of the information by pre-filling out the applications and approving incomplete applications. Even if the Ms. Moore’s allegations do not rise to knowledge that the information was false or an inference of deliberate ignorance, they exhibit at least reckless disregard for the truth or falsity of the information.

Cote acted with deliberate ignorance, even going so far as to pre-fill out Borrower Application forms with “No” responses to key questions that required certification in order to be approved for a loan. R. at 31. Further, Cote and Steven Presh approved two applications, Liberation Booksellers and Linda Beauty Bar, without a signature page. R. at 35-36. According to the PPP Interim Final Rule, it is the lenders’ responsibility to confirm receipt of borrower certifications in the application form. 85 Fed. Reg. 33010, 33013. By accepting applications that did not include the signature page, an essential part of certifying that the information in the application is correct,

Cote and Presh acted in deliberate ignorance of whether the information contained in the application was correct. In fact, the Government agreed that not including a signer page “certainly disqualifies [the application] for approval of the loan (and would leave Confluence on the hook for breaching its duty to confirm certification).” R. at 80.

Ms. Moore again brought these concerns to her loan manager’s attention, but there was no action taken to combat these concerns. R. at 31. In fact, Lake told Ms. Moore that Cote felt like Ms. Moore was micromanaging him and that he did not feel like Moore felt confidence in his work. R. at 32. While Lake did not explicitly tell Moore to stop raising concerns about Cote’s work, there is a reasonable inference that Lake had the meeting to discourage Moore from bringing forward further concerns about Cote’s work. *See United States v. Bollinger Shipyards, Inc.*, 775 F.3d 255, 262 (5th Cir. 2014) (finding the district court erred in not viewing a letter, including its potential implications, in the light most favorable to the nonmoving party on the issue of scienter where the letter does not say on its face that steps should be taken to avoid review but “indicated” it); *U.S. ex rel. Willard v. Humana Health Plan of Texas, Inc.*, 336 F.3d 375, 385 (5th Cir. 2003) (finding that even a complaint that offered no specificity relevant to party’s intent at the time of contract fulfilled the loosened 9(b) requirement for state of mind).

The Government agreed with Ms. Moore’s claims that Cote’s behavior is unfitting but instead argued that the behavior of one loan officer was not enough to establish culpability under the FCA. R. at 76. However, *respondeat superior* is a well-established principle that holds that “an employer or principal liable for the employee’s or agent’s wrongful acts committed within the scope of the employment or agency.” RESPONDEAT SUPERIOR, Black’s Law Dictionary (11th ed. 2019). Cote was certainly working within the scope of employment when he was approving loans and was an agent of Confluence Bank, so his actions are sufficient under *respondeat superior*

to establish culpability under the FCA. Further, the Government ignores the fact that it was not only Cote's behavior that Ms. Moore called into question but the actions of Lake, Presh, and the Vice President that played the Mursea Hotels phone call over the loudspeaker. The Government also argued that at each opportunity to inform someone higher up of fatal misrepresentations, Ms. Moore "opted instead to... use the FCA as both sword and shield." R. at 74. However, the Government again ignores the pattern that Ms. Moore pled through her many allegations of false claims from Mursea Hotels, 3D6, and Blecher's Board Games as well as the many times that she raised these concerns to her manager.

4. Upper management knowingly created an environment that encouraged focus on approving as many loans as possible quickly without attention to compliance and quality control

Relator alleged that on March 6, 2019 and on June 9, 2019, emails were circulated to the Confluence Commercial Loans staff with an SBA PPP Report, including a list of the top PPP lenders nationally. R. at 33. In addition, on June 6, 2019, Confluence senior leadership chose to play the Mursea Hotels phone call regarding an \$18 million loan even though Ms. Moore had flagged the loan multiple times. R. at 34, 66. Relator also alleged she was told she should try to increase her average loan size and was assigned to Presh in response to red flags she was raising in order to "help move things along." R. at 32, 35. These facts, in conjunction with the larger fees that Confluence would earn with larger loans (R. at 39) and the many allegations of false claims Relator made, lead to a reasonable inference that Confluence approached the accuracy of its certifications with reckless disregard to maximize its own profit. *See United States v. Americus Mortg. Corp.*, No. 4:12-CV-02676, 2014 WL 4274279, at *10 (S.D. Tex. Aug. 29, 2014) (finding an allegation that the Defendants knowingly or with deliberate ignorance made a false certification

with a motive to maximize their own profits was sufficient). These allegations are sufficient to demonstrate that Confluence had the requisite scienter.

II. THE DISTRICT COURT ERRED IN CONCLUDING THAT RELATOR DID NOT MEET THE PLEADING STANDARDS FOR MATERIALITY

Relator sufficiently alleged that the false statements in the PPP loans were material. The Supreme Court has instructed that a false statement is material if it “has a natural tendency to influence or [is] capable of influencing the decisionmaking body...” *United States ex rel. Longhi v. United States*, 575 F.3d 458, 468 (5th Cir. 2009) (citing *Neder v. United States*, 527 U.S. 1, 16 (1999) (alteration in original) (citations omitted) (quotation omitted)). This Court has also adopted three factors for materiality (“*Escobar* factors”): (1) “the Government’s decision to expressly identify a provision as a condition of payment”, (2) “evidence that the defendant knows that the Government consistently refuses to pay claims in the mine run of cases based on noncompliance with the particular statutory, regulatory, or contractual requirement” and (3) materiality “cannot be found where noncompliance is minor or insubstantial.” *See United States ex rel. Lemon v. Nurses To Go, Inc.*, 924 F.3d 155, 161 (5th Cir. 2019) (internal citations omitted) (quoting *Universal Health Services, Inc. v. United States ex rel. Escobar*, 136 S. Ct. 1989, 2003 (2016)). None of the factors are dispositive and the inquiry is holistic. *Id.*

In deciding the question of materiality, the district court did not analyze Relator’s claims for materiality against these standards but instead simply stated that the “FCA is not intended to be used [sic] tool for punishing innocent regulatory violations...” R. at 98. The district court begged the question by assuming the regulatory violations raised by the Relator were innocent mistakes. The FCA is the Government’s “primary litigation tool for recovering losses resulting from fraud.” *U.S. ex rel. Steury v. Cardinal Health, Inc.*, 625 F.3d 262, 267 (5th Cir. 2010). Further,

the District Court made no reference to any of the false claims that Relator pled when deciding the issue of materiality.

- A. The Government expressly identified the false statements in Relator’s pleadings as conditions of payment, including the size of the small business, total revenues earned by certain businesses, and certifications of compliance

Ms. Moore’s allegations fulfilled the first factor in finding materiality because the false statements at issue are conditions of payment under Section 7(a) of the Small Business Act. 15 U.S.C. 636(a). Eligibility for the PPP loan is explicitly conditioned on the size of the business according to the NAICS standard. Section 1102(a)(36)(D)(i)(II). As a lender, Confluence had a duty to certify the information in the application. 85 Fed. Reg. 33010, 33013. Therefore, Confluence made a false claim based on a material statement regarding Mursea Hotel’s eligibility. In its investigation memo, the Government does not deny that Mursea Hotels exceeded the NAICS requirement and therefore was not eligible for the PPP loan, but it instead contends that the SBA may have paid out anyway based on average revenue falling below the \$35 million maximum. R. at 81. Similarly, the Defendant also made a false claim about 3D6’s eligibility. 3D6 exceeded the size standards in the CARES Act with double the number of employees. R. at 53. Even if 3D6 was somehow considered to be one of the industries in the NAICS standard, it would surpass the revenue maximum for any of the categories. R. at 55. The Government again did not deny that this claim was false or that the size standards disqualified the business from receiving the PPP loan but dismissed pursuing action against 3D6 because it would be “expensive.” R. at 80.

This Court, however, has adopted a broader interpretation of the “natural tendency to influence or capable of influencing” standard and requires only that the false statements “could have” or had the “potential” to influence the government’s decision and not that it did influence. *United States ex rel. Longhi v. United States*, 575 F.3d 458, 468 (5th Cir. 2009). Because of this,

the Government’s statement about the possibility that the SBA would still pay does not cut against a finding of materiality since it would have had the potential to influence the SBA’s decision as it is a key condition of eligibility. This is also true for 3D6, which surpasses the statutory condition of having no more than 500 employees. R. at 53. Even if 3D6 were considered one of the NAICS industries, it would surpass the revenue maximum for any of these businesses. R. at 53-54; *see also United States ex rel Lemon v. Nurses To Go, Inc.*, 924 F.3d 155 (5th Cir. 2019) (where certification requirements that Defendant allegedly violated were in the Medicare statute as condition for payment, false certification was material violation).

The applications approved without signer pages or initials would similarly support a finding of materiality under this factor. The Government agreed that having a signer page is a condition of approval for the loan when it said that the lack of signatures “*certainly* disqualifies [the application] for approval of the loan (and would leave Confluence on the hook for breaching its duty to confirm certification).” R. at 80 (emphasis added). This is similar to *Longhi*, where a statement from an evaluator who approved a claim was considered probative of materiality when he explained that he would have rejected the claim if the Defendant had included the information at issue. 575 F.3d at 472 (5th Cir. 2009).

Lastly, the application for Blecher’s Board Games cuts in favor of a finding of materiality. Relator flagged Blecher’s Board Games’ application because it did not include in financial records that it was owned by the 3D6 and likely had access to other capital. R. at 32. The fact that Blecher’s likely had access to other capital is material to the Government’s decision to make a PPP loan. In late April 2020, the Department of Treasury issued guidance that borrowers would have to certify whether they are able to obtain credit elsewhere. R. at 66. This was in response to companies like Mursea Hotels, which is a multimillion-dollar operation that received millions in PPP loans. *Id.*

Even though this guidance was issued after Blecher’s application, the fact that the Government specifically issued this direction signals that it considered alternative access to capital to be a material factor.

B. Government has conducted enforcement actions against similar FCA violations, and Defendants likely knew the Government would consistently refuse to pay claims that do not comply with the requirements

To meet the second Escobar factor, Ms. Moore alleged that the Government has enforced similar FCA violations, particularly in commercial lending and Medicaid and Medicare schemes, which is probative of materiality. R. at 83; *see also Lemon*, 924 F.3d at 155 (5th Cir. 2019) (finding the Relator’s allegations that the government agency has taken enforcement actions against others that failed to conduct appropriate certifications was probative of materiality). The CARES Act is still very new, so there is a unique difficulty in alleging the Government consistently refused to pay claims based on noncompliance with the PPP, but the Relator did allege similar enforcement actions.

In addition to government enforcement, proof of materiality in this factor can also include evidence that the Defendant knows the Government consistently refuses to pay claims that do not comply with the requirement. *Universal Health Servs., Inc. v. United States*, 136 S. Ct. 1989, 2003, 195 L. Ed. 2d 348 (2016). The Mursea Hotels application is helpful on this point. Despite the Government finding that the Mursea Hotels phone call was not indicative of knowledge (R. at 81), viewing this phone call in the light most favorable to the nonmoving party would support the inference Wanda and Don Rees and Confluence were surprised because they expected the Government to find that Mursea Hotels was ineligible and reject the claim. The applications that were pre-filled with a “No” response also support a finding of materiality. These false statements to Questions 1, 2, 5, and 6, are of particular importance to the PPP loan because a “Yes” response

would require the lender reject the application. R. at 31. In fact, there have been numerous cases where a “Yes” response to this question led to a denied PPP application. *See Defy Ventures, Inc. v. U.S. Small Bus. Admin.*, No. CV CCB-20-1736, 2020 WL 3546873, at *4 (D. Md. June 29, 2020) (suit by plaintiffs who were denied PPP loans because of one of these questions). The Defendant knows the Government would consistently refuse to pay these claims because the Government has explicitly required the lender to reject any loans with a “Yes” answer to any of these questions. R. at 31.

Escobar also found that evidence the Government paid a particular claim in full despite actual knowledge that certain requirements were not met could support a defense under this factor. *See United States ex rel. Emerson Park v. Legacy Heart Care, LLC*, No. 3:16-CV-0803-S, 2019 WL 4450371, at *8 (N.D. Tex. Sept. 17, 2019). However, there is no indication that the Government had actual knowledge of any of the false statements Ms. Moore pled.

Further, even if Ms. Moore did not meet this factor, each of the *Escobar* factors is not dispositive, and it is not required that Relator assert specific prior government enforcement actions prosecuting similar claims. *See Lemon*, 924 F.3d at 162 (5th Cir. 2019) (finding “it would be illogical to require a relator to plead allegations about past government action in order to survive a motion to dismiss when such allegations are relevant, but not dispositive.”) (quoting *United States ex rel. Prather v. Brookdale Senior Living Communities, Inc.*, 892 F.3d 822 (6th Cir. 2018)).

C. Compliance with the requirements at issue is not minor or insubstantial because a reasonable person would attach importance to requirements that are conditions of receiving PPP loans

Finally, a violation is not material where “noncompliance is minor or insubstantial.” *Escobar*, 136 S. Ct. at 2003 (2016). A violation is material if a reasonable person would “attach importance to [it] in determining” an action or if the defendant knew or had reason to know “the

recipient of the representation attaches importance to the specific matter” even where a reasonable person would not. *Lemon*, 924 F.3d at 163 (5th Cir. 2019). For Mursea Hotels, 3D6, Blecher’s Board Games, Liberation Booksellers, and Linda Beauty Bar, it is clear that the false statements at issue would have disqualified the applications for a PPP loan because the issues involved in each of these applications were conditions of payment. See *Lemon*, 924 F.3d at 163 (5th Cir. 2019) (finding that where the allegations are sufficient to establish the Government would deny payment, the Court also concluded that “Government would attach importance to the underlying violations”). Particularly with Linda Beauty Bar’s and Liberation Booksellers’ applications, the Government found that the failures in the application “certainly disqualifie[d] [applicant] for approval of the loan.” R. at 80. Further, the loans at issue in this case amount to millions of dollars, particularly a \$18 million loan to Mursea Hotels and a \$10 million loan to 3D6., which renders the conditions of payment quite substantial. R. at 32-33.

D. The district court inappropriately relied on the Government’s investigation in finding lack of materiality

In finding Ms. Moore did not adequately plead materiality to support her claim that Confluence violated the False Claims Act, the district court found “Relator has also not alleged that the Government had a hidden motive not to investigate her claims.” R. at 98. The district court relies on the Government’s investigation and memo as a full picture of the allegations at hand and uses them to quickly dismiss the Relator’s allegations of materiality, seemingly under a theory that the Government’s moving to dismiss Relator’s claims is demonstrative of the lack of materiality. However, it is unnecessary for the Relator to allege that the Government had a hidden motive not to investigate her claims for Relator to show that the FCA violations are material or even have scienter. Instead, the Relator has sufficiently alleged there was materiality according to the *Escobar* factors.

Applicant Details

First Name **Jonathan**
 Middle Initial **A**
 Last Name **Lippner**
 Citizenship Status **U. S. Citizen**
 Email Address lippner1@gmail.com

Address
Address
Street
1220 Emerald Dr.
City
Lemont
State/Territory
Illinois
Zip
60439
Country
United States

Contact Phone Number **6308633913**

Applicant Education

BA/BS From **University of Illinois-Urbana-Champaign**
 Date of BA/BS **May 2014**
 JD/LLB From **University of Illinois, College of Law**
http://www.nalplawsonline.org/ndlsdir_search_results.asp
 Date of JD/LLB **May 16, 2020**
 Class Rank **33%**
 Law Review/Journal **Yes**
 Journal(s) **University of Illinois Law Review**
 Moot Court Experience **No**

Bar Admission

Admission(s) **Illinois**

Prior Judicial Experience

Judicial Internships/
Externships **Yes**
Post-graduate Judicial
Law Clerk **Yes**

Specialized Work Experience

Recommenders

Roebuck, Amy
aroebuck@illinois.edu
8587316290
Horan, Cecilia
choran07@gmail.com
Moritz, Shannon
smmoritz@illinois.edu
(217) 244-7912

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Jonathan Lippner

1220 Emerald Dr. • Lemont, IL 60439 • (630) 863-3913 • lippner1@gmail.com

May 12, 2022

The Honorable John D. Bates
United States District Court for the District of Columbia
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue NW
Washington, D.C. 20001

Dear Judge Bates:

I recently completed a clerkship with Judge Cecilia A. Horan in the Circuit Court of Cook County, General Chancery Division. I have a strong interest in constitutional law, and I aspire to enhance my trial advocacy skills. Accordingly, I am interested in clerking for you during the 2024–2025 term. I have included for your review my résumé, writing sample, and transcripts. Additionally, I have included recommendation letters from Judge Horan, Professor Amy Roebuck, and Professor Shannon Moritz. My writing sample is a draft summary judgment memorandum order I prepared during my clerkship with Judge Horan, and she provided permission to include this draft in my application.

I strongly believe I could add immediate value to your chambers. I gained significant courtroom experience during my clerkship with Judge Horan. In this position, I assisted the judge in the preparation of countless hearings by reviewing the briefs, analyzing the issues, and conducting research. Also, I greatly enhanced my writing skills by drafting several memorandum orders on motions to dismiss, motions for summary judgment, and administrative review of agency decisions. Many of these cases involved complex issues that required research outside of the authorities cited by litigants.

Furthermore, as Editor-in-Chief of the *University of Illinois Law Review*, I refined my writing skills by editing several articles and by working with authors to develop their pieces. This position also instilled a strong work ethic, discipline, and the importance of teamwork. I worked with my fellow board members to successfully manage the selection of scholarly pieces, the summer writing competition, and our entire editing process. Additionally, I enhanced my time management skills since my duties involved addressing personnel matters or any unexpected affairs affecting our journal. Ultimately, I graduated law school with *magna cum laude* honors.

If you would like any additional materials or have any questions, please feel free to contact me. Thank you for your consideration.

Sincerely,



Jonathan Lippner

Jonathan Lippner

1220 Emerald Dr. • Lemont, IL 60439 • (630) 863-3913 • lippner1@gmail.com

Licensed to Practice, State of Illinois, January 14, 2021

EDUCATION

University of Illinois College of Law, Champaign, IL

Juris Doctor, Magna Cum Laude, May 2020

GPA: 3.51 / 4.00, Top 1/3 of Class

- *University of Illinois Law Review*, Editor-in-Chief
- Teaching Assistant for *Legal Writing & Analysis* and *Introduction to Advocacy*
- A in *Federal Courts*
- Federalist Society

University of Illinois Urbana-Champaign, Urbana, IL

Bachelor of Science, Chemical Engineering, May 2014

GPA: 3.19 / 4.00

WORK EXPERIENCE

Circuit Court of Cook County, General Chancery Division, Chicago, IL

Judicial Law Clerk for the Honorable Cecilia A. Horan, January 2021 – April 2022

- Drafted summary judgment opinions concerning contract disputes, real property disputes, Freedom of Information Act requests, and administrative review of agency decisions
- Drafted opinions that ruled on motions to dismiss class action complaints; counts included violations of the Consumer Fraud and Deceptive Business Practices Act and the Biometric Information Privacy Act
- Drafted opinions that ruled on insurance coverage disputes concerning professional responsibility, environmental cleanup, and COVID-19 business losses
- Researched and analyzed various legal authorities to help prepare the judge for contested hearings
- Managed a 400-case docket by scheduling status conferences, hearings, settlement conferences, and trials
- Managed our externship program by providing mentorship, delegating assignments, and offering feedback

Illinois House of Representatives, Springfield, IL

Legal Intern, January 2020 – May 2020

- Researched and summarized laws of all 50 states on bail reform, domestic violence, and vaping
- Observed various committee hearings and drafted analyses of the issues

Husch Blackwell, Chicago, IL

Summer Associate, May 2019 – July 2019

- Researched and drafted a motion for summary judgment based on statute of repose protection
- Researched and drafted memoranda on a variety of issues such as patent infringement, patent validity, collateral estoppel, impleader, notice of deposition, attorney fees, and professional conduct

Will County Courthouse, Joliet, IL

Judicial Extern, May 2018 – August 2018

- Drafted trial order for Judge Susan T. O’Leary after a three-week civil bench trial; issues included breach of contract, common law fraud, piercing the corporate veil, and civil RICO
- Observed felony trials, civil court jury selection, and arbitrations; discussed attorney effectiveness with judge

Archer Daniels Midland Company, Decatur, IL

Process Engineer, October 2014 – July 2017

- Identified opportunities for savings and improvements for the industrial fermentation and refining of lysine

ORGANIZATIONS

Alpha Chi Rho Fraternity Building Association, Champaign, IL


Board Member, August 2016 – Present

INTERESTS

- Weight lifting, running, Chicago White Sox baseball, Illini basketball, country concerts, craft beer, history

Academic History


660559855 Jonathan A. Lippner
Apr 22, 2022 01:35 pm

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[Institution Credit](#) [Transcript Totals](#)

Transcript Data

STUDENT INFORMATION

Name : Jonathan A. Lippner

Birth Date: Oct 04, 1991

Curriculum Information

Most Recent Program(s)

College: Law

Major and Department: Law, Law

This is NOT an Official Transcript

DEGREE INFORMATION

Awarded: Juris Doctor **Degree Date:** May 16, 2020

Institutional Honors: Magna Cum Laude

Curriculum Information

Program Information

College: Law

Campus: Urbana-Champaign

Major: Law

INSTITUTION CREDIT [-Top-](#)

Term: Fall 2017 - Urbana-Champaign

College: Law

Major: Law

Academic Standing:

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Academic History: View Academic History Select Level and Type; ...; Registration and Records Tab

Subject	Course Level Title			Grade	Credit Hours	Quality Points	GPA
LAW	601	1L	Contracts	B+	4.000	13.32	
LAW	602	1L	Property	B+	4.000	13.32	
LAW	607	1L	Civil Procedure	B	4.000	12.00	
LAW	609	1L	Legal Writing & Analysis	A-	2.000	7.34	
LAW	627	1L	Legal Research	B+	1.000	3.33	
				Attempt Hours	Passed Hours	Earned Hours	GPA
							Quality Points
Current Term:				15.000	15.000	15.000	15.000
Cumulative:				15.000	15.000	15.000	15.000
							49.31
							49.31
							3.28
							3.28

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Term: Spring 2018 - Urbana-Champaign

College: Law
Major: Law
Academic Standing:
Additional Standing: Deans List

Subject	Course Level Title			Grade	Credit Hours	Quality Points	GPA
LAW	603	1L	Torts	B+	4.000	13.32	
LAW	604	1L	Criminal Law	A	4.000	16.00	
LAW	606	1L	Constitutional Law I	B+	4.000	13.32	
LAW	610	1L	Introduction to Advocacy	A-	3.000	11.01	
LAW	792	1L	Fund of Legal Practice	S	1.000	0.00	
				Attempt Hours	Passed Hours	Earned Hours	GPA
							Quality Points
Current Term:				16.000	16.000	16.000	15.000
Cumulative:				31.000	31.000	31.000	30.000
							53.65
							102.96
							3.57
							3.43

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Term: Fall 2018 - Urbana-Champaign

College: Law
Major: Law
Academic Standing:

Subject	Course Level Title			Grade	Credit Hours	Quality Points	GPA		
LAW	600	1L	Pro Bono Service	S	0.000	0.00			
LAW	633	1L	Business Associations I	A-	3.000	11.01			
LAW	645	1L	Patent Law	A-	3.000	11.01			
LAW	679	1L	Criminal Proc: Adjudication	B+	3.000	9.99			
LAW	692	1L	Summer/Fall Externships	S	4.000	0.00			
LAW	696	1L	Lgl Wrtg Teaching Practicum	S	1.000	0.00			
LAW	696	1L	Law Review	S	1.000	0.00			
LAW	793	1L	Adv Legal Writing: App Adv	B+	2.000	6.66			
				Attempt Hours	Passed Hours	Earned Hours	GPA	Quality Points	GPA
Current Term:				17.000	17.000	17.000	11.000	38.67	3.51
Cumulative:				48.000	48.000	48.000	41.000	141.63	3.45

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Term: Spring 2019 - Urbana-Champaign

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Academic History: View Academic History Select Level and Type; ...; Registration and Records Tab

College: Law
Major: Law
Academic Standing:
Additional Standing: Deans List

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	680	1L	Professional Responsibility	A	3.000	12.00	
LAW	682	1L	Evidence	A	4.000	16.00	
LAW	684	1L	Federal Courts	A	3.000	12.00	
LAW	696	1L	Law Review	S	1.000	0.00	
LAW	696	1L	Intro to Adv Teach Practicum	S	1.000	0.00	
LAW	794	1L	Mergers & Acquisitions	B+	3.000	9.99	
				Attempt Hours	Passed Hours	Earned Hours	GPA
							Quality Points
Current Term:				15.000	15.000	15.000	13.000
Cumulative:				63.000	63.000	63.000	54.000
							49.99
							191.62
							3.84
							3.54

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Term: Fall 2019 - Urbana-Champaign

College: Law
Major: Law
Academic Standing: Not Calculated or Unknown

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	605	1L	Criminal Proc: Investigation	A-	3.000	11.01	
LAW	638	1L	White Collar Crime	B+	3.000	9.99	
LAW	647	1L	Income Taxation	B+	4.000	13.32	
LAW	694	1L	Trial Advocacy	B	2.000	6.00	
LAW	695	1L	Trial Advocacy Workshop	S	3.000	0.00	
LAW	696	1L	Law Review	S	2.000	0.00	
				Attempt Hours	Passed Hours	Earned Hours	GPA
							Quality Points
Current Term:				17.000	17.000	17.000	12.000
Cumulative:				80.000	80.000	80.000	66.000
							40.32
							231.94
							3.36
							3.51

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Term: Spring 2020 - Urbana-Champaign

College: Law
Major: Law
Academic Standing:

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	615	1L	Administrative Law	PP	3.000	0.00	
LAW	624	1L	Real Estate Finance	PP	3.000	0.00	
LAW	656	1L	International Law	PP	3.000	0.00	
LAW	692	1L	Legislative Projects	S	4.000	0.00	
LAW	696	1L	Law Review	S	2.000	0.00	
LAW	794	1L	State and Local Taxation	PP	3.000	0.00	
				Attempt Hours	Passed Hours	Earned Hours	GPA
							Quality Points
Current Term:				18.000	18.000	18.000	0.000
Cumulative:				98.000	98.000	98.000	66.000
							0.00
							231.94
							3.51




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TRANSCRIPT TOTALS (LAW - URBANA-CHAMPAIGN) [-Top-](#)

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Total Institution:	98.000	98.000	98.000	66.000	231.94	3.51
Total Transfer:	0.000	0.000	0.000	0.000	0.00	0.00
Overall:	98.000	98.000	98.000	66.000	231.94	3.51

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RELEASE: 8.7.1


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Academic History


660559855 Jonathan A. Lippner
Apr 22, 2022 01:38 pm

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In the Degree Information section, you may see multiple sought degree records. To view your current degree, click on the View Student Information link at the bottom of the page.



Note: Academic standing is reviewed by your college and is subject to change.

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Transcript Data

STUDENT INFORMATION

Name : Jonathan A. Lippner

Birth Date: Oct 04, 1991

Curriculum Information

Most Recent Program(s)

College: Liberal Arts & Sciences

Major and Department: Chemical Engineering,
Chemical & Biomolecular
Engr

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DEGREE INFORMATION

Awarded: Bachelor of Science **Degree Date:** May 17, 2014

Curriculum Information

Program Information

College: Liberal Arts & Sciences

Campus: Urbana-Champaign

Major: Chemical Engineering

TRANSFER CREDIT ACCEPTED BY INSTITUTION [-Top-](#)

FA10: ACT/SAT

Subject	Course	Title	Grade	Credit Hours	Quality Points	R
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RHET	105	Principles of Composition	PS	4.000	0.00
Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	0.000	4.000	4.000	0.000	0.00

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FA10: Advanced Placement Tests

Subject	Course	Title	Grade	Credit Hours	Quality Points	R
MATH	220	Calculus	PS	5.000	0.00	
MATH	231	Calculus II	PS	3.000	0.00	
PS	101	Intro to US Gov & Pol	PS	3.000	0.00	
Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA	
Current Term:	0.000	11.000	11.000	0.000	0.00	0.00

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INSTITUTION CREDIT [-Top-](#)

Term: Fall 2010 - Urbana-Champaign

College: Division of General Studies
Major: Undeclared
Academic Standing: Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R		
CHEM	102	1U	General Chemistry I	A-	3.000	11.01			
CHEM	103	1U	General Chemistry Lab I	A-	1.000	3.67			
ENG	101	1U	Engineering at Illinois	S	1.000	0.00			
MATH	241	1U	Calculus III	B-H	4.000	10.68			
PHYS	211	1U	University Physics: Mechanics	A	4.000	16.00			
PS	280	1U	Intro to Intl Relations	A-	3.000	11.01			
				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:				16.000	16.000	16.000	15.000	52.37	3.49
Cumulative:				16.000	16.000	16.000	15.000	52.37	3.49

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Term: Spring 2011 - Urbana-Champaign

College: Division of General Studies
Major: Undeclared
Academic Standing: Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R		
CHEM	104	1U	General Chemistry II	C+	3.000	6.99			
CHEM	105	1U	General Chemistry Lab II	B+	1.000	3.33			
CS	101	1U	Intro Computing: Engrg & Sci	C	3.000	6.00			
MATH	285	1U	Intro Differential Equations	B	3.000	9.00			
PHYS	212	1U	University Physics: Elec & Mag	B-	4.000	10.68			
				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:				14.000	14.000	14.000	14.000	36.00	2.57
Cumulative:				30.000	30.000	30.000	29.000	88.37	3.04

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Academic History: View Academic History Select Level and Type; ...; Registration and Records Tab

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Term: Summer 2011 - Urbana-Champaign**College:** Division of General Studies**Major:** Undeclared**Academic Standing:** Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points
PHYS	214	1U	Univ Physics: Quantum Physics	A+	2.000	8.00
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours
Current Term:			2.000	2.000	2.000	2.000
Cumulative:			32.000	32.000	32.000	31.000

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Term: Fall 2011 - Urbana-Champaign**College:** Liberal Arts & Sciences**Major:** Chemical Engineering**Academic Standing:** Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points
CHBE	221	1U	Principles of CHE	A-	3.000	11.01
CHEM	222	1U	Quantitative Analysis Lecture	A-	2.000	7.34
CHEM	223	1U	Quantitative Analysis Lab	B	2.000	6.00
CHEM	236	1U	Fundamental Organic Chem I	A	4.000	16.00
MATH	415	1U	Applied Linear Algebra	A	3.000	12.00
RLST	110	1U	World Religions	B-	3.000	8.01
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours
Current Term:			17.000	17.000	17.000	17.000
Cumulative:			49.000	49.000	49.000	48.000

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Term: Spring 2012 - Urbana-Champaign**College:** Liberal Arts & Sciences**Major:** Chemical Engineering**Academic Standing:** Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points
CEE	330	1U	Environmental Engineering	A	3.000	12.00
CHBE	321	1U	Thermodynamics	A	4.000	16.00
CHEM	436	1U	Fundamental Organic Chem II	A-	3.000	11.01
CLCV	116	1U	The Roman Achievement	A	3.000	12.00
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours
Current Term:			13.000	13.000	13.000	13.000
Cumulative:			62.000	62.000	62.000	61.000

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Official Transcript.

Term: Fall 2012 - Urbana-Champaign**College:** Liberal Arts & Sciences

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4/22/22, 1:38 PM

Academic History: View Academic History Select Level and Type; ...; Registration and Records Tab

Major: Chemical Engineering**Academic Standing:** Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points
CHBE	421	1U	Momentum and Heat Transfer	C	4.000	8.00
CHEM	237	1U	Structure and Synthesis	C+	2.000	4.66
CHEM	420	1U	Instrumental Characterization	C	2.000	4.00
CHEM	442	1U	Physical Chemistry I	B	4.000	12.00
IE	300	1U	Analysis of Data	B-	3.000	8.01
PS	240	1U	Intro to Comp Politics	B+	3.000	9.99

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	18.000	18.000	18.000	18.000	46.66	2.59
Cumulative:	80.000	80.000	80.000	79.000	254.40	3.22

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Official Transcript.

Term: Spring 2013 - Urbana-Champaign**College:** Liberal Arts & Sciences**Major:** Chemical Engineering**Academic Standing:** Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points
CHBE	422	1U	Mass Transfer Operations	C	4.000	8.00
CHBE	424	1U	Chemical Reaction Engineering	B	3.000	9.00
CHBE	497	1U	Individual Study for Seniors	A	2.000	8.00
CHEM	315	1U	Instrumental Chem Systems Lab	B-	2.000	5.34
CHEM	444	1U	Physical Chemistry II	C+	4.000	9.32
PS	382	1U	Intl Political Economy	A-	3.000	11.01

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	18.000	18.000	18.000	18.000	50.67	2.81
Cumulative:	98.000	98.000	98.000	97.000	305.07	3.14

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Term: Fall 2013 - Urbana-Champaign**College:** Liberal Arts & Sciences**Major:** Chemical Engineering**Academic Standing:** Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points
CHBE	431	1U	Process Design	B+	4.000	13.32
CHBE	440	1U	Process Control and Dynamics	C-	3.000	5.01
CHBE	456	1U	Polymer Science & Engineering	B	3.000	9.00
CHBE	497	1U	Individual Study for Seniors	A	2.000	8.00
CHBE	497	1U	Individual Study for Seniors	A	1.000	4.00
NPPE	201	1U	Energy Systems	A	2.000	8.00

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	15.000	15.000	15.000	15.000	47.33	3.15
Cumulative:	113.000	113.000	113.000	112.000	352.40	3.14

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Term: Spring 2014 - Urbana-Champaign

College: Liberal Arts & Sciences
Major: Chemical Engineering
Academic Standing: Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
ANSC	250	1U	Companion Animals in Society	A	3.000	12.00	
CHBE	430	1U	Unit Operations Laboratory	B+	4.000	13.32	
CHBE	497	1U	Individual Study for Seniors	A-	2.000	7.34	
NPPE	402	1U	Nuclear Power Engineering	A-	3.000	11.01	
				Attempt Hours	Passed Hours	Earned Hours	GPA
							Quality Points
Current Term:				12.000	12.000	12.000	43.67
Cumulative:				125.000	125.000	125.000	3.19

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TRANSCRIPT TOTALS (UNDERGRAD - URBANA-CHAMPAIGN) -Top-

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Total Institution:	125.000	125.000	125.000	124.000	396.07	3.19
Total Transfer:	0.000	15.000	15.000	0.000	0.00	0.00
Overall:	125.000	140.000	140.000	124.000	396.07	3.19

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University of Illinois College of Law
504 E. Pennsylvania Ave.
Champaign, IL 61820

May 12, 2022

The Honorable John Bates
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

It is my great pleasure to recommend Jonathan Lippner for a judicial clerkship.

Jon was a student in my Federal Courts class during the Spring 2019 semester, and over the course of several months, I had the opportunity to observe him in the classroom setting as well as meet with him several times outside the classroom. In the classroom, Jon's legal observations and comments reflected a sophisticated and thoughtful approach to complicated legal issues. In fact, he quickly became my "go-to person" for initiating thoughtful debate regarding challenging and nuanced issues of federal jurisdiction. Outside the classroom, he demonstrated an equally genuine enthusiasm in the subject matter and engaged in insightful follow-up discussion regarding interesting cases and difficult concepts. His grades in Federal Courts matched his enthusiasm for the subject matter, and he consistently scored among the very top in my class. That he was a teaching assistant for both legal writing and advocacy classes and elected Editor-in-Chief of the University of Illinois Law Review for the 2019-2020 academic year further tells me that he is a self-motivated, skilled researcher and drafter who cares about getting the details right. In short, I am confident that Jon has the legal skills, the dedication, and the professionalism to be an invaluable asset to your chambers as a judicial clerk.

Of course, intellectual ability and professional skills represent only a portion of the necessary qualities needed for a successful clerk, as personal qualities such as integrity, graciousness and respect for others are equally important in determining the right fit for a judicial clerkship position. Jon excels in these important personal qualities, as well. Importantly, I observed these qualities during my own interactions with Jon, and I observed his fellow classmates' respect for Jon during his tenure at the University of Illinois College of Law. For example, the Federal Courts class I teach is almost uniformly comprised of students near the top of their 2L or 3L law school class. They are driven, competitive, and uncompromising in their pursuit of excellence. It is especially telling in such a competitive, highly talented pool of students that Jon was (and remains) so well thought of by his fellow colleagues. In fact, before class began one day, I congratulated him on his recent promotion to Editor-in-Chief of Law Review, and the class broke into impromptu, enthusiastic applause on his behalf. That his fellow classmates were so clearly happy for him and for his impressive accomplishment demonstrated that he consistently exercised the same good humor, graciousness, and respect for his fellow classmates as he had shown to his professors.

Since graduation, Jon has continued to demonstrate his commitment to excellence during his successful tenure as judicial clerk for Judge Cecilia Horan in the General Chancery Division of the Cook County Circuit Court. I have every confidence that he will excel in your chambers by combining his legal acumen with the invaluable skills and practical experience he has gained from his current clerkship position. It is without hesitation that I recommend him to you for consideration for a judicial clerkship.

If I can be of any further assistance, please feel free to contact me.

Sincerely,

Amy M. Roebuck
Lecturer in Law
University of Illinois College of Law

Amy Roebuck - aroebuck@illinois.edu - 8587316290